

Hawai'i State Association of Counties (HSAC)
Counties of Kaua'i, Maui, Hawai'i & City & County of Honolulu

AGENDA
HSAC EXECUTIVE COMMITTEE MEETING
Tuesday, September 11, 2012 at 10:00 a.m.
Honolulu Hale, Committee Meeting Room
Honolulu, Hawai'i

I. CALL TO ORDER

II. APPROVAL OF AGENDA

III. MINUTES

- A. Minutes of the August 31, 2012 HSAC Executive Committee Meeting, submitted by the HSAC Secretary.

IV. REPORTS

A. Treasurer's Report

- i. Treasurer's Report for the month of August 2012, submitted by the HSAC Treasurer.

B. County Reports

- i. County of Maui Report
ii. County of Hawai'i Report
iii. City and County of Honolulu Report
iv. County of Kaua'i Report

C. National Association of Counties (NACo) Report

D. Western Interstate Region (WIR) Report

V. UNFINISHED BUSINESS

- A. Communication (August 21, 2012) from Vice Chair K. Angel Pilago, Hawai'i County Council, transmitting for the Executive Committee's approval the following proposals, which were approved by the Hawai'i County Council at its meeting on August 15, 2012, to be included in the 2013 HSAC Legislative Package:

- i. **A BILL FOR AN ACT RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING**

- ii. A BILL FOR AN ACT RELATING TO THE DEFINITION OF INDIGENT AND PARTIALLY INDIGENT
- iii. A BILL FOR AN ACT RELATING TO GALLONAGE TAX ON LIQUOR

VI. NEW BUSINESS

A. Communication (August 29, 2012) from City Clerk Bernice K.N. Mau, City and County of Honolulu, transmitting for the Executive Committee's information and approval of the following proposals, which were approved by the Honolulu City Council at its meeting on August 15, 2012, to be included in the 2013 HSAC Legislative Package:

- i. Resolution 12-179: A BILL FOR AN ACT RELATING TO PSEUDOEPHEDRINE
- ii. Resolution 12-180: A BILL FOR AN ACT RELATING TO LANDOWNER LIABILITY
- iii. Resolution 12-181: A BILL FOR AN ACT RELATING TO VOTING
- iv. Resolution 12-182: CONCURRENT RESOLUTION URGING THE UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF HOMELAND SECURITY, AND THE UNITED STATES ATTORNEY GENERAL TO EASE VISA RESTRICTIONS FOR THE PEOPLE'S REPUBLIC OF CHINA
- v. Resolution 12-183: RESOLUTION/CONCURRENT RESOLUTION URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT ACCOMMODATIONS TAX
- vi. Resolution 12-184, CD1: A BILL FOR AN ACT RELATING TO HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND BOARD OF TRUSTEES
- vii. Resolution 12-186: A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM
- viii. Resolution 12-187: A BILL FOR AN ACT RELATING TO ELECTRONIC WASTE RECYCLING

- ix. Resolution 12-190: APPROVING NOMINEES TO THE BOARD OF DIRECTORS OF THE NATIONAL ASSOCIATION OF COUNTIES AND THE WESTERN INTERSTATE REGION
 - x. Resolution 12-191: A BILL FOR AN ACT RELATING TO TRAFFIC INFRACTIONS
- B. Communication (August 30, 2012) from Council Chair, Jay Furfaro, Kaua'i County Council, transmitting for the Executive Committee's approval the following proposals, which were approved by the Kaua'i County Council at its meetings on August 22, 2012 and August 29, 2012, to be included in the 2013 HSAC Legislative Package:
- i. A BILL FOR AN ACT RELATING TO ENERGY RESOURCES
 - ii. A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING CREDITS
- C. Communication (September 4, 2012) from Councilmember Elle Cochran, Maui County Council, requesting that the Executive Committee extend the deadline for consideration of the 2013 HSAC Legislative Package until the HSAC Executive Committee Meeting in October, to consider a proposal that is scheduled for the Maui County Council's September 21, 2012 meeting.

VII. ANNOUNCEMENTS

- A. Schedule next meeting
- B. Other announcements

VIII. ADJOURNMENT

K. ANGEL PILAGO
Vice Chair
Council District 8 – North Kona



Phone: (808) 323-4280
Fax: (808) 329-4786
Email: apilago@co.hawaii.hi.us

HAWAII COUNTY COUNCIL

West Hawai'i Civic Center, Bldg. A
74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740

August 21, 2012

Mel Rapozo, President
Hawai'i State Association of Counties (HSAC)
4396 Rice Street, Suite 209
Līhu'e, HI 96766

Dear President Rapozo:

This is to inform you that the Hawai'i County Council at its meeting on August 15, 2012, approved Resolutions 287-12, 288-12, and 289-12 (the official signed resolutions will be forwarded directly from the County Clerks office). These resolutions request for consideration by HSAC to include referenced proposed bills in the 2013 HSAC Legislative Package.

- 1) Resolution 287-12 containing A BILL FOR AN ACT RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING.
- 2) Resolution 288-12 containing A BILL FOR AN ACT RELATING TO THE DEFINITION OF INDEIGENT AND PARTIALLY INDIGENT.
- 3) Resolution 289-12 containing A BILL FOR AN ACT RELATING TO GALLONAGE TAX ON LIQUOR.

The Hawai'i County Council encourages HSAC to give strong consideration to submit these items, on its behalf, to the 2013 Legislative session.

Should you have any questions or need additional information, please feel free to contact me or a member of my staff.

Sincerely,

K. Angel Pilago

KAP/jks
Attachments

RESOLUTION NO. 287 12

A RESOLUTION TO THE HAWAI'I STATE ASSOCIATION OF COUNTIES URGING IT TO INCLUDE AS PART OF ITS 2013 LEGISLATIVE PACKAGE A REQUEST TO REVISE AND CLARIFY AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING, AS PROVIDED IN CHAPTER 486 OF THE HAWAI'I REVISED STATUTES.

WHEREAS, Resolution 158-11 to the Hawai'i State Association of Counties urging it to include as part of its 2012 Legislative Package a request to revise and clarify Agricultural Product Branding and Country or Region of Origin Labeling, as provided in Chapter 486 of the Hawai'i Revised Statutes was duly adopted by the Council on October 5, 2011; and

WHEREAS, Hawai'i Revised Statutes (hereinafter "HRS"), Section 486-1 states in the definition of "misbranded" that such term includes (underscoring provided for emphasis only):

- (1) False, incomplete, incorrect, or misleading labeling;
- (2) Misrepresentation as to the identity, quantity, quality, or point of origin;
- (3) Misrepresentation as to the principal place of business of the manufacturer, packer, or distributor;
- (4) Misrepresentation by vignette, pictorial display, identifiable geographical location, or by any term, word, or phrase in juxtaposition to any other information associated with, labeled on, or accompanying the consumer commodity which falsely alludes to a specific point of origin, a general locale such as a state, or to historical usage by a people;
- (5) Misrepresentation as to originality or creativity;
- (6) Misrepresentation of the consumer commodity as an imitation of another or as an imitation of a generic product; and
- (7) Misrepresentation in any other manner tending to confuse the prospective purchaser.

WHEREAS, HRS, Section 486-1 provides the following definition for "perishable consumer commodity" (underscoring provided for emphasis only):

““Perishable consumer commodity” means any article, product, good, or agricultural commodity of any kind that is customarily produced or distributed for sale through mercantile or retail sales outlets; is intended for consumption as food or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions; and is intended to have a limited shelf life. “Perishable consumer

commodity” includes, but is not limited to, baked goods, dairy products, cut or dried flowers, coffee, candy, cookies, jam, jelly, juices, oils, nuts, or similar products.”

WHEREAS, HRS, Section 486-7, Specific powers and duties of the board; rules, states in paragraph (9) of subsection (b) that the Board of Agriculture may adopt rules that include (underscoring provided for emphasis only):

- “(9) Practices to assure that amounts of commodities or services sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest.”

WHEREAS, HRS, Section 486-110, Method of sale of commodities; general, provides in part that (underscoring provided for emphasis only):

“All methods of sale shall provide accurate and adequate quantity information that permits the buyer to make price and quantity comparisons. The board may adopt such reasonable rules as may be necessary to assure that the measure of any commodity for sale reflects accurate information and fair measurement practices to all concerned.”

WHEREAS, HRS, Section 486-111 Packages; information required; variations; exemptions, states in part that:

“Except as otherwise provided in this chapter, any package introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale, shall bear on the outside of the package definite, plain, and conspicuous declarations of:

- (1) The identity of the commodity in the package, unless the commodity can be identified easily through the wrapper or container;
- (2) The net quantity of the contents in terms of measure.”

WHEREAS, HRS, Section 486-113, Deceptive package, states in part that (underscoring provided for emphasis only): “No commodity shall be so wrapped or labeled, nor shall it be in a container so made, formed, or filled as to mislead the purchaser as to the quantity of the contents of the commodity in the package, and the contents of a container shall not fall below such reasonable standard of fill as has been prescribed for the commodity by rule of the board.”

WHEREAS, HRS, Section 486-118, Misbranding, states (underscoring provided for emphasis only):

“[§486-118] **Misbranding.** (a) No person shall deliver for introduction, hold for introduction or introduce into the State; or keep, offer, or expose for sale; or sell any consumer commodity which is misrepresented or misbranded in any manner.

(b) The board, pursuant to section 486-7 and chapter 91, shall adopt rules relating to misbranding. The rules may:

- (1) Require any person involved in the manufacture, processing, production, assembly, fabrication, or importation of a specified consumer commodity to keep and make available for inspection or copying by the administrator adequate records to substantiate the source of the consumer commodity, or in the case of blends, the source of such constituents, as may be required by the board;
- (2) Establish fanciful names or terms, and in the case of blends, minimum constituent content by weight, to be used in labeling to differentiate a specific consumer commodity from an imitation or look-alike; and
- (3) Establish requirements to reconcile the respective volumes of specific consumer commodities received versus the total amounts output, either as whole or processed product or as blends.

In addition, the board may adopt other rules as it deems necessary for the correct and informative labeling of consumer commodities.”

WHEREAS, HRS, Section 486-119, Hawai‘i-made products; Hawai‘i-processed products, states (underscoring provided for emphasis only):

“§486-119 Hawaii-made products; Hawaii-processed products. (a) No person shall keep, offer, display or expose for sale, or solicit for the sale of any item, product, souvenir, or any other merchandise that is labeled “made in Hawaii” or that by any other means misrepresents the origin of the item as being from any place within the State, or uses the phrase “made in Hawaii” as an advertising or media tool for any craft item that has not been manufactured, assembled, fabricated, or produced within the State and that has not had at least fifty-one per cent of its wholesale value added by manufacture, assembly, fabrication, or production within the State.

(b) Subsection (a) notwithstanding, no person shall keep, offer, display, expose for sale, or solicit the sale of any perishable consumer commodity that is labeled “made in Hawaii”, “produced in Hawaii”, or “processed in Hawaii” or that by any other means represents the origin of the perishable consumer commodity as being from any place within the State, or use the phrase “made in Hawaii”, “produced in Hawaii”, or “processed in Hawaii” as an advertising or media tool for any perishable consumer commodity, unless the perishable consumer commodity is wholly or partially manufactured, processed, or produced within the State from raw materials that originate from inside or outside the State and at least fifty-one per cent of the wholesale value of the perishable consumer commodity is added by manufacture, processing, or production within the State.”

WHEREAS, HRS, Section 486-120, “Island fresh” milk, states in part that (underscoring provided for emphasis only): “(a) No person shall keep, offer, display, expose for sale, or solicit for the sale of any processed milk or milk product which is labeled with the term “island fresh”, or like terms, or which by any other means misrepresents the origin of the item as being from any place within the State unless the processed milk or milk product has been at least ninety per cent, by weight, produced in the State.”

WHEREAS, HRS, Section 486-120.5, Macadamia nuts; labeling requirements, subsection (b), states in part that (underscoring provided for emphasis only): “If a label on a consumer package contains language that a portion of the raw or processed macadamia nuts contained in the package was grown in Hawaii, the label shall be worded “Hawaii-Grown Macadamia Nuts”, preceded by the per cent by weight of the macadamia nuts contained in the package that were grown in Hawaii, and shall appear on the principal display panel of the package.”

WHEREAS, HRS, Section 486-120.6, Hawai‘i-grown roasted or instant coffee; labeling requirements, states in part that (underscoring provided for emphasis only):

“(a) In addition to all other labeling requirements, the identity statement used for labeling or advertising roasted or instant coffee produced in whole or in part from Hawaii-grown green coffee beans shall meet the following requirements:

(2) For roasted or instant coffee consisting of a blend of one or more Hawaii-grown coffees and coffee not grown in Hawaii, the per cent coffee by weight of one of the Hawaii-grown coffees used in the blend, followed by the geographic origin of the weight-specified coffee and the term “Coffee Blend”; and

“(c) “It shall be a violation of this section:

(2) To use a geographic origin in labeling or advertising, including in conjunction with a coffee style or in any other manner, if the roasted or instant coffee contains less than ten per cent coffee by weight from that geographic origin.”

WHEREAS, the practice of protecting milk (90%) but disadvantaging both macadamia nuts (10%) and coffee (10%), as well as many other crops, is discriminatory to the growers of these crops and contradicts several sections of the HRS, such as (underscoring provided for emphasis only):

1. The definition of “misbranding” (HRS 486-1) for providing incomplete information, misrepresentation as to the identity or point of origin, identifiable geographical location, and the historical usage by a people, misrepresentation of the consumer commodity as an imitation of another or as an imitation of a generic product, or misrepresentation in any other manner tending to confuse the prospective purchaser. If country of origin or the majority percentage of the product is not identified on the front label in large font, then the consumer cannot determine if the product meets his or her needs. Therefore, the consumer needs to be protected from misbranding of any food product by identifying the majority of the product by country or region of origin instead of only ten to fifty percent of the product; and

2. The definition of “practices” (HRS 486-1) “to assure that amounts of commodities or services sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest.” If the front label is not informative as to country or region of origin for the majority of the product, the consumer may inadvertently purchase a non-Hawaiian commodity product. Therefore, the consumer as a party at interest needs information to determine what he or she is actually buying on the front label; and

3. The Board must require “practices to assure that amounts of commodities or services sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest” (HRS 486-7). The parties most interested in the product content are the consumers who should be able to instantly understand from the label what the contents are by percentage for each country or region of origin.

4. The Board must require that “...All methods of sale shall provide accurate and adequate quantity information that permits the buyer to make price and quantity comparisons. The board may adopt such reasonable rules as may be necessary to assure that the measure of any commodity for sale reflects accurate information and fair measurement practices to all concerned” (HRS 486-110). Therefore, fair measurement without full disclosure on the front label of the point of origin or the percentages from each point of origin is deceptive, and the consumer is disadvantaged by a lack of information as to the origin of the product.

5. HRS, Section 486-110 also provides that the consumer shall have enough information to allow price and quantity comparisons. Withholding sufficient information as to the country or point of origin disallows such comparisons; and

6. Part of the information that the package shall bear on the outside of the package in its “definite, plain, and conspicuous declarations” is the identity of the commodity in the package which should include all points of origin, and the net quantity of the contents in terms of measure which should include the percentage of each point of origin (HRS 486-111). The current loophole in the law allows processors to disadvantage the consumer by hiding pertinent information. The net measure should be more than just the weight or measure of the total product. It should include country or region of origin by percentage. Therefore, the consumer is entitled to know the exact composition of the product rather than only ten to fifty percent of the product; and

7. Misleading a consumer is not allowed in Hawai‘i, as HRS, Section 486-113 so states. While this section refers to the fill amount, its protection also extends to protecting the consumer if the labeling is misleading. Providing information about only ten percent of a product is deceptive and misleading. Therefore, the consumer needs to know the weight and percentage of each component of the product by country or region of origin; and

8. If the administrator is provided substantive information as to the content and point of origin of a product, in the case of blends, the source of such constituent parts, should be provided to the consumer to differentiate a specific consumer commodity from an imitation or “look-alike” (HRS 486-118). Therefore, if the administrator is entitled to complete information, then so is the consumer. When ten percent or even fifty percent of a product is not identified by country or region of origin, the consumer may falsely believe that he or she is purchasing an entirely different product from what the label reads. This imitation or look-alike product may confuse the consumer into buying something he or she did not intend to buy. To correctly, accurately, and thoroughly label consumer products is the very least our consumers deserve; and

9. When 51% of the wholesale value is added by manufacturing, assembling, fabricating, or production outside of the State or Country (HRS 486-11), a loophole is created that allows foreign products to use the name of “Hawai‘i”, “Hawaiian”, or the “Hawaiian country or region of origin” in an effort to deceive the public and promote that foreign product. “Made in Hawai‘i” becomes misleading because only 49% of the product may originate in Hawai‘i,

with the remainder coming from a source outside of the State or Country. This should be remedied by full disclosure of the origins of the all components of the item.

This problem also negatively impacts perishable agricultural products. The 51% added by processing disadvantages the Hawai'i grower, reduces the Hawai'i product purchased, confuses the consumer, and limits the revenue to the agricultural industry in Hawai'i. As a result, manufacturers have a loophole in this section. By adding 51% of the wholesale value, manufacturers or processors claim a Hawai'i, Hawaiian, or Hawaiian regional origin.

A perishable consumer commodity that is grown in the State of Hawai'i should contain more than 51% of a "Hawai'i", "Hawaiian", or "Hawaiian regional product" constituent part. Value-added products or blends should be required to have at least 75% of the perishable consumer product that is grown in Hawai'i; and

10. HRS, Section 486-120 protects milk products by requiring 90% of the milk to be produce in-state. Other agricultural products should require much more than 10% or even 50% before that product can be labeled with a Hawai'i, Hawaiian, or a Hawaiian regional name; and

11. The current language of HRS, Section 486-120.5 allows discrimination by product such as, macadamia nuts, which like coffee and other products receives a discriminatory lack of protection, and the farmers growing these products are financially disadvantaged; and

12. As a result of the language in HRS, Section 486-120.6, a loophole is created allowing processors to use a minimum of 10% of any Hawai'i-grown product and claim a Hawaiian point of origin. This is deceptive and false advertising to our consumers because a ten percent blend is not distinguishable from the 90% out-of-country portion of the blend, degrades the Hawaiian regional identities by producing a diluted Hawaiian product, and is a poor bargain from a price standpoint since the value of the Hawaiian product is massively greater than an out-of-country product. Additionally, other perishable Hawaiian products use much higher percentages and this minimum ten percent or even fifty percent is discriminatory against specific products which inflates the processors profit to the detriment of the growers; and

WHEREAS, the Market Development Branch of the State Department of Business, Economic Development and Tourism has stated that Kona coffee growers and marketers are missing major opportunities for marketing in Asia, with emphasis on Mainland China (PRC) and Taiwan, because consumers in those countries are confused by "blends" and want to be assured that they are buying 100% Kona coffee. This problem impacts every growing region in the state that grows coffee or any other product. Regional identity sells product, which is why the processors want to use our geographic names, but not provide at least 75% of our agricultural products in their final product. They save money and Hawai'i growers lose money; and

WHEREAS, other States promote and encourage the geographic identity of their homegrown products (for example, Washington Apples, Florida Oranges, Vidalia Onions, Idaho Potatoes, and Napa Valley Wines). This type of regional and geographic branding is vitally important to growers and ultimately, the State through our tax dollars; and

WHEREAS, it is essential that the State of Hawai'i strengthen its statutory requirements to protect the agricultural industry with State legislation serving as a basis for Federal legislation

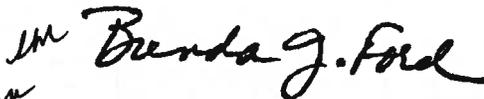
to protect the Hawai'i and Hawaiian geographic names in consumer outlets on the mainland United States and in foreign countries; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI'I that it requests the Hawai'i State Associations of Counties to include in its 2013 Legislative Package, a draft bill to amend Chapter 486 of the Hawai'i Revised Statutes labeled "Exhibit A" and the justification sheet for this action labeled "Exhibit B."

BE IT FINALLY RESOLVED, that the County Clerk shall forward copies of this resolution to the President of the Hawai'i State Association of Counties, and the respective Mayors of the counties of Hawai'i, Kaua'i, Maui, and the City and County of Honolulu.

Dated at _____, Hawai'i, this _____ day of _____, 2012.

INTRODUCED BY:

for 
COUNCIL MEMBER, COUNTY OF HAWAI'I

COUNTY COUNCIL
County of Hawai'i
Hilo, Hawai'i

I hereby certify that the foregoing RESOLUTION was by the vote indicated to the right hereof adopted by the COUNCIL of the County of Hawai'i on _____.

ATTEST:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
BLAS				
FORD				
HOFFMANN				
IKEDA				
ONISHI				
PILAGO				
SMART				
YAGONG				
YOSHIMOTO				

Reference: C-804/GRC-

RESOLUTION NO. 287 12

COUNTY CLERK CHAIRPERSON & PRESIDING OFFICER

EXHIBIT A

Page 1

____.B. NO. _____

A BILL FOR AN ACT

RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. Hawai'i Revised Statutes, Chapter 486, Measurement Standards, Part V, Measurement Standards, Uniform Packaging and Labeling is amended to add a new section 486-120.7 to read as follows:

“§486-120.7 Agricultural product branding and country or region of origin labeling.

(a) All agricultural products grown, packaged, or sold in Hawai'i shall conform to the following conditions:

Honey, macadamia nuts, coffee, tea, vanilla, and any other plant or animal products for which any information or name indicating “Hawai'i”, “Hawaiian”, or any region of Hawai'i, and where the product is less than 100% grown in Hawai'i, shall after the word “Contains:” list on the front label the country or region of origin and the percentage of each country's or region's portion of the product in descending order of percentage and in font size at least equal to one-half the size of the largest font on the front label. (Spices are exempted unless spice is the major portion of the product.)

(b) All agricultural products claiming to be 100% grown in Hawai'i shall be labeled to conform to the following condition:

(1) A minimum of 100% Hawai'i-grown product shall be included in the package for the front label to say, with or without Hawaiian okinas, in a font size at least equal to one-half the size of the largest font:

“100% Hawai'i (product)” or “Hawai'i (product)”

“100% Hawai'i-Grown (product)” or “Hawai'i-Grown (product)”;

“100% Grown in Hawai'i”;

“100% Hawai'i-Made (product)” or “Hawai'i-Made (product)”;

“100% Hawaiian-Made (product)” or “Hawaiian-Made (product)”;

“100% Made in Hawai'i”; or

“100% Hawaiian (product)” or “Hawaiian (product)”.

(2) Spices are exempted unless spice is the major portion of the product.

(c) All agricultural products claiming to be 100% grown in a single Hawaiian region shall be labeled to conform to the following conditions:

(1) A minimum of 100% of the Hawaiian regionally-grown product shall be included in the package for the front label to say, with or without Hawaiian okinas, in a font size at least equal to one-half the size of the largest font:

(A) Regional names:

“100% (Region) (product)” or “(Region) (product)”;

“100% (Region)-Grown (product)” or “(Region)-Grown (product)”;

“100% (Region)-Made (product)” or “(Region)-Made (product)”; or

“100% (Region) (product)”.

(B) In the case of a blend that contains 100% products from multiple Hawaiian islands:

“100% Hawaiian Islands (product) Blend” or “100% Hawai‘i Islands (product) Blend”.

(2) Spices are exempted unless spice is the major portion of the product.

(d) All packaging and labeling for products claiming to contain some but less than 100% Hawai‘i-grown product shall conform to the following conditions:

(1) A blended plant or animal product labeled with the words “Hawai‘i” “Hawaiian” or the name of any Hawaiian region (e.g. “75% Kona Coffee Blend”) shall:

(A) Contain a minimum of 75% of that named region’s agricultural or animal product, and shall use the word “Blend” in the identification of the product;

(B) List the percentage number of the majority portion of the product (e.g. “75% (region) (product)”); and

(C) List after the word “Contains:” in descending order, and after the majority content, the remainder of the product by percentage and country or Hawaiian region of origin, with or without okinas, for example:

“15% Argentina (product)” and “10% Congo (product)”;

“15% Argentina (product)” and “10% Mau‘i (product)”; or

“25% Mau‘i and Kaua‘i (product)” (The bulk listing of percentages shall be allowed for Hawaiian regions only); and

(D) The labeling required in (1), (2), and (3) above shall be printed on the front label in a font size at least equal to one-half the size of the largest font on the front label.

(2) Any blended product that contains less than 75% of a Hawaiian product shall not use the names “Hawai‘i” “Hawaiian” or any Hawaiian regional name on the front label, except in the contents list which shall identify on the front label the countries or geographic regions of origin for the entire product with the

percentage for each country's or region's portion of the product in a font size at least equal to one-half the size of the largest font on the front label."

SECTION 2. Nothing stated on side or back labels on any product subject to this section shall be inconsistent with statements appearing on the front label.

SECTION 3. To the extent the provisions of this section are inconsistent with the labeling requirements of HRS Sections 486-120.5, 486-120.6, or 486-119, or any other statutory section, the provisions of this section shall apply.

SECTION 4. New material is underscored. In printing this ordinance, the underscoring need not be included.

SECTION 5. The effective date of this ACT shall be 18 months from the date the legislation is passed by the State Legislature. The passage of this ACT shall begin the 18-month time period for the effective date to take effect.

INTRODUCED BY: _____

EXHIBIT B

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING IN HAWAI'I REVISED STATUTES, SECTION 486.

PURPOSE: To amend HRS Chapter 486 on branding agricultural products and labeling with the country or region of origin to protect Hawai'i's regional crops and our growers investment, , provide protection of the consumer, prevent misleading information on labels, be informative to all parties of interest, create an identity for Hawai'i agricultural products, increase the minimum percentage in blends of any product to 75% before a Hawaiian or Hawai'i regional name may be placed on the label, and equalize all agricultural products in the way products are labeled and blended.

MEANS: Amend HRS Chapter 486 to make all agricultural products fairly and accurately labeled with a minimum percentage of Hawaiian products and country or region of origin so the consumer knows exactly what they are buying from the front label.

JUSTIFICATION: Milk products require 90% of the product to be produced in Hawai'i before the name of "Island Fresh" may be allowed on the label. However, other Hawaiian products, coffee, tea, vanilla, and macadamia nuts products are allowed to have as low as 10% Hawaiian product and be labeled with a Hawaiian regional name and the word, "blend". This is discriminatory, disadvantages the growers, confuses the consumer, degrades our Hawaiian products, and makes a mockery of the regional quality of our products. Additionally, HRS 486 specifically and in numerous sections, prohibits unfair or misleading the consumer, or misrepresents the origin of the product. HRS 486-110 specifically states "measure of any commodity for sale reflects accurate information and fair measurement practices to all concerned". Section 486 needs to be amended to protect the growers and consumers.

COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

RESOLUTION NO. 288 12

RESOLUTION REQUESTING THE HAWAI‘I STATE ASSOCIATION OF COUNTIES TO INCLUDE IN ITS 2013 LEGISLATIVE PACKAGE AN AMENDMENT TO THE HAWAI‘I REVISED STATUTES, SECTION 802-4, BY AMENDING THE DEFINITION OF “INDIGENCY” AND “PARTIAL INDIGENCY” FOR CRIMINAL DEFENDANTS AND ESTABLISH CRITERIA TO CLEARLY DELINEATE CIRCUMSTANCES IN WHICH COURT-APPOINTED COUNSEL IS NECESSARY.

WHEREAS, Resolution 168-11 requesting the Hawai‘i State Association of Counties to include in its 2012 Legislative Package an amendment to the Hawai‘i Revised Statutes, Section 802-4, by amending the definitions of “Indigency” and “Partial Indigency” for Criminal Defendants and establish criteria to clearly delineate circumstances in which court-appointed counsel is necessary was duly adopted by the Council on October 5, 2011; and

WHEREAS, the State of Hawai‘i has no concrete definition or criteria defining “indigency”. Moreover, Hawai‘i Revised Statutes, section 802-4 grants the Office of the Public Defender the exclusive right to determine whether or not a criminal defendant is indigent, and states as follows:

“§802-4 Determination of indigency. Unless otherwise ordered by the court, the determination of indigency shall be made by a public defender, subject to review by the court. Such determination shall be based upon an appropriate inquiry into the financial circumstances of the person seeking legal representation and an affidavit or a certificate signed by such person demonstrating the person's financial inability to obtain legal counsel. A person shall waive the person's right to counsel by refusing to furnish any information pertinent to the determination of indigency”; and

WHEREAS, at present, the State of Hawai‘i’s process for determining indigency lacks legal necessities required by other states for criminal defendants; and

WHEREAS, many states have a concrete cut-off point for indigency classification, such as; Washington State asserts that if a criminal defendant, after paying taxes, has an annual income of one hundred twenty-five percent (125%) or less of the current federally established poverty level, he/she is indigent. The Georgia State Courts, which declares that for misdemeanor cases, criminal defendants must earn less than one hundred twenty-five percent (125%) of the Federal Poverty Guidelines in order to qualify as indigent; however, in felony cases, criminal defendants must earn less than one hundred fifty percent (150%) of the Federal Poverty Guidelines in order to qualify as indigent; and

WHEREAS, currently, the Office of the Public Defender for the State of Hawai‘i uses a very basic questionnaire. The form inquires briefly about the criminal defendant and defendant’s

spouse's jobs, and then asks criminal defendants to list assets (such as homes, cars and investments); monthly expenses (food, rent, medical/dental); and "Other Debts". Aside from this information, the form contains only biographical information and itemizes any public assistance that the criminal defendant is receiving. While this information is certainly essential, it is merely a starting point for an in-depth investigation of the applicant's financial circumstances; and

WHEREAS, many other states thoroughly examine the criminal defendant's finances and assets. Their assessment include questions regarding other persons living in the household (including children, dependants and contributing members of the household), as well as provide space for listing more than one job. Additionally, many states request substantially more data regarding the criminal defendant's assets, including: income provided to criminal defendant by individuals other than himself and his spouse, retirement benefits, any alimony/child support received, sporting equipment (such as boats and motorcycles), money owed to the criminal defendant, personal property of worth (such as appliances), "other valuable property" (such as gold, precious stones, jewelry, works of art, farm equipment, etc.), and the amount of cash a criminal defendant has on hand. It is only with a comprehensive inventory that the State will be able to make an accurate determination as to whether the criminal defendant warrants government-funded public defense for criminal actions; and

WHEREAS, the Office of the Public Defender uses a standardized form to gather financial information on criminal defendants; however, they are not required by law to verify the information listed. The Office of the Public Defender is merely required to conduct "an appropriate inquiry into the financial circumstances of the person seeking legal representation", and obtain "an affidavit or a certificate signed by such person demonstrating the person's financial inability to obtain legal counsel." Although criminal defendants must sign a sworn affidavit which, if inaccurate could result in prosecution, studies show that this process rarely deters untruthful parties. Furthermore, the Office of the Public Defender neither reports, nor furnishes the criminal defendant's request forms, to the Office of the Prosecutor when they find that the information provided is fraudulent; and

WHEREAS, Office of the Public Defender's non-objective determinations are neither fair nor adequate because bias is present. As a result of this non-objective screening, it is certain that on occasion criminal defendants, who are in fact quite wealthy, and perfectly able to afford representation, are deemed to be indigent. Some designations of indigence may streamline the determination process by eliminating the need to gather and verify additional and substantial financial data; and

WHEREAS, it is reasonable to require pay stubs and tax returns to accurately establish income. Similarly, employer verification, information from landlords/property managers can be useful in showing assets. It is not unusual to compel permission to run credit reports and retrieving banking information, before determining parties to be indigent. If a criminal defendant is already receiving public assistance, a number of jurisdictions automatically deem him indigent. By not verifying criminal defendants' financial information, the State runs a risk of providing public attorneys to individuals who can actually afford private counsel. This in turn, wastes scarce resources and runs the risk of providing sub-standard services to all people, which is poor public policy and constitutionally unsound; and

WHEREAS, there are a number of difficulties when it comes to deciding which entity/entities should ultimately verify criminal defendants' applications for court-appointed counsel. While government entities certainly have more specialized knowledge, a conflict of interest is almost unavoidable. If prosecutors screen the cases, they can threaten to deny a criminal defendant counsel, unless he pleads guilty. If the public defenders office verifies the indigency of potential cases, they run the risk of allowing their personal interests to affect their decisions as to accept or reject a criminal defendant. If the presiding judiciary is responsible for verifying indigency, it may violate the American Bar Association Model Code of Judicial Conduct. In 2008, the Nevada Supreme Court developed the applicable rule stating that a "determination of indigency should be performed by an independent board, agency, or committee, or by judges not directly involved in the case"; and

WHEREAS, economic verification of potential indigents costs money so a number of jurisdictions charge an application fee for every person who is interested in receiving a public defender, and if the criminal defendant cannot pay the fee in advance, the amount is added to the judgment and sentence if the criminal defendant is convicted; and

WHEREAS, a number of states use the "partially indigent" definition to distinguish those who are truly indigent from those who can contribute limitedly to the cost of their counsel. This label would be appropriate when criminal defendants are deemed partially able to pay for their own counsel; and

WHEREAS, some criminal defendants who should not have a public defender falsely obtain a public defender and then request a jury trial which costs the State of Hawai'i thousands if not millions of dollars; and

WHEREAS, because the State of Hawai'i has limited resources, it is essential that we make certain that funding is appropriately disbursed. The technique that is currently in place to evaluate the need for and assign court-appointed counsel is inefficient and outdated; furthermore, it discourages both consistency and fairness. These changes will create a far more defined and regulated system, and will streamline the process of determining indigency, ensuring that the constitutional rights of indigent people are met equitably; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI'I that the Hawai'i State Association of Counties include in its 2013 Legislative Package, a draft bill to amend Hawai'i Revised Statutes, section 802-4 labeled "Exhibit A" and the justification Sheet for this action labeled "Exhibit B."

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Hawai'i State Association of Counties and the respective Mayors of the Counties of Hawai'i, Kaua'i, Maui, and the City and County of Honolulu.

Dated at _____, Hawai'i, this _____ day of _____, 2012.

INTRODUCED BY:

Burda J. Ford

COUNCIL MEMBER, COUNTY OF HAWAI'I

COUNTY COUNCIL
County of Hawai'i
Hilo, Hawai'i

ROLL CALL VOTE

I hereby certify that the foregoing RESOLUTION was by the vote indicated to the right hereof adopted by the COUNCIL of the County of Hawai'i on _____.

ATTEST:

	AYES	NOES	ABS	EX
BLAS				
FORD				
HOFFMANN				
IKEDA				
ONISHI				
PILAGO				
SMART				
YAGONG				
YOSHIMOTO				

Reference: C-805/Waived GRC
RESOLUTION NO. 288 12

COUNTY CLERK CHAIRPERSON & PRESIDING OFFICER

EXHIBIT A

THE _____ .B. NO. _____

TWENTY-____ LEGISLATURE, 2013

STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO THE DEFINITION OF INDIGENT AND PARTIALLY INDIGENT.

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

SECTION 1. Section 802-4, Hawai'i Revised Statutes, is amended to read as follows:

“§802-4 Determination of indigency. (a) Unless otherwise ordered by the court, the determination of indigency shall be made by [~~a public defender subject to review by the court~~] an independent board, agency, or committee, or by judges not directly involved in the case and shall be known as the verification officers. Such determination shall be based upon an appropriate **and thorough** inquiry into the financial circumstances of the person seeking legal representation and an affidavit or a certificate signed by such person demonstrating the person's financial inability to obtain legal counsel. A person shall waive the person's right to counsel by refusing to furnish any information pertinent to the determination of indigency.

(b) The definition of “indigent” shall be based on an objective determination of annual income and other resources, and shall comply with the following:

- a. For misdemeanor cases, criminal defendants must earn less than one hundred twenty-five percent (125%) of the Federal Poverty Guidelines in order to qualify as indigent.
- b. For felony cases, criminal defendants must earn less than one hundred fifty percent (150%) of the Federal Poverty Guidelines in order to qualify as indigent.

(c) Financial Standards for Determining Indigence.

- (1) The financial standards set forth below shall be used to determine whether a defendant is indigent and shall be applied equally to each defendant in the county. In determining whether a defendant is indigent, the verification officers may consider the defendant's income, assets, property owned,

outstanding obligations, necessary expenses, the number and ages of defendant's children, and spousal income that is available to the defendant.

(2) A defendant is considered indigent if:

1. The defendant's net household income does not exceed 125% of the Poverty Guidelines as established and revised annually by the United States Department of Health and Human Services and published in the Federal Register; and
2. The value of the non-exempt assets and property owned by the defendant:
 - (i) does not exceed \$2,500.00;
 - (ii) does not exceed \$5,000.00 in the case of a defendant whose household includes a person who is age 60 or over, disabled, or institutionalized; or
 - (iii) does not exceed double the estimated cost of obtaining competent private legal representation on the offense(s) with which the defendant is charged.

(C) The following table indicates income levels guidelines:

The income levels in the following table represent 125% of the U.S. Department of Health and Human Services Poverty Guidelines for 2008.

<u>1</u>	<u>\$10,400</u>
<u>2</u>	<u>14,000</u>
<u>3</u>	<u>17,600</u>
<u>4</u>	<u>21,200</u>
<u>5</u>	<u>24,800</u>
<u>6</u>	<u>28,400</u>
<u>7</u>	<u>32,000</u>
<u>8</u>	<u>35,600</u>

For family units with more than eight members, add \$3,600 for each additional member in the family when determining 125% of Poverty.

(D) A defendant is considered indigent if, at the time of requesting appointed counsel, the defendant or the defendant's dependents have been determined to be eligible to receive food stamps, Medicaid,

Temporary Assistance for Needy Families, Supplemental Security Income, or public housing.

(E) A defendant is considered indigent if the defendant:

- (i) is currently serving a sentence in a correctional institution, is currently residing in a public mental health facility, or is the subject of a proceeding in which admission or commitment to such a mental health facility is sought, and does not have sufficient funds in his inmate trust account to hire counsel; and**
- (ii) has no non-exempt assets or property in excess of the amounts specified in (b)(2)(B) above.**

(3) Definition of "partially indigent" (see section 802-6):

(A) A defendant determined to be partially indigent shall be eligible for appointment of counsel only upon payment to the county of an appointment fee of \$100 if charged with one or more misdemeanors or \$250 if charged with one or more felonies. If a defendant determined to be partially indigent pleads or is found guilty, the court may order the defendant to comply with a payment schedule to reimburse the county for all indigent defense costs in the case.

(B) A defendant shall be considered partially indigent if the defendant does not meet any of the standards for indigence set forth in (b)(2)(B) above and:

- (i) The defendant's net household income is greater than 125% but does not exceed 175% of the Poverty Guidelines as established and revised annually by the United States Department of Health and Human Services and published in the Federal Register; and**
- (ii) The value of the non-exempt assets and property owned by the defendant:**
 - a. Does not exceed \$2,500.00;**
 - b. Does not exceed \$5,000.00 in the case of a defendant whose household includes a person who is age 60 or over, disabled, or institutionalized; or**
 - c. Does not exceed double the estimated cost of obtaining private legal representation on the offense(s) with which the defendant is charged.**

(4) Factors Not to be Considered.

(A) A defendant's posting of bail or ability to post bail may not be considered in determining whether the defendant is indigent or partially indigent except to the extent it reflects the defendant's financial circumstances as measured by (b) above. Even when a

defendant has posted bail, the defendant's financial circumstances are measured by the financial standards stated in this rule.

(B) Except where the Defendant is a juvenile, the resources available to friends or relatives of the defendant may not be considered in determining whether the defendant is indigent. Only the defendant's financial circumstances as measured by the financial standards stated in this rule shall be used as the basis for determining indigence.

(5) Payment by defendant

(A) A court that finds that a criminal defendant has financial resources to offset, in part or in whole, the costs of legal services provided under this Part, may order the defendant to pay the county that portion of the costs of legal services, provided that it finds that the defendant is able to pay. If a defendant is placed on probation or deferred adjudication, the court, as a condition of probation, may require repayment of all or a portion of the county's cost for providing legal representation if it does not impose a substantial financial hardship on the defendant or his legal dependants.

(B) Upon a determination of indigency, the Judge presiding over the case shall sign the form indicating the accused is indigent and shall immediately appoint an attorney pursuant to the approved attorney appointment list plan.

(d) A uniform, well-defined screening process to gather and verify substantial financial data shall include an in-depth investigation of the applicant's financial circumstances to make an accurate determination as to whether the criminal defendant warrants government-funded public defense. The following is the minimum required information:

- (1) obtain biographical information;**
- (2) itemize any public assistance that the criminal defendant is receiving;**
- (3) list all jobs held by criminal defendant and defendant's spouse, even part-time jobs or cash only jobs;**
- (4) list assets (such as homes in any location, cars and investments);**
- (5) list monthly expenses (food, rent, medical/dental);**
- (6) list other debts;**
- (7) other persons living in the household (including children, dependants and contributing members of the household);**
- (8) list all jobs;**

- (9) list income provided to criminal defendant by individuals other than himself and his spouse;
- (10) list retirement benefits;
- (11) list any alimony/child support received or paid, or owed;
- (12) list sports equipment (such as boats and motorcycles);
- (13) list money owed to the criminal defendant;
- (14) list personal property of worth (such as appliances);
- (15) list other valuable property (such as gold, precious stones, jewelry, works of art, farm equipment, etc.); and
- (16) list the amount of cash a criminal defendant has on hand.

(e) Fees.

- (1) An application fee of \$100.00 for one or more misdemeanors and \$250 for one or more felonies shall be charged for every person interested in receiving a public defender to pay for the cost of verification of financial information. If the criminal defendant cannot pay the fee in advance, the amount is added to the judgment and sentence if the criminal defendant is convicted. Utilize a promissory note for the application fee which the criminal defendant signs before the disposition of the case.
- (2) For those defendants who are partially indigent, a contribution plan shall be devised to contribute to the cost of their counsel. If the criminal defendant cannot pay the fee in advance, the amount is added to the judgment and sentence if the criminal defendant is convicted. Utilize a promissory note for the application fee which the criminal defendant signs before the disposition of the case.
- (3) The Office of the Public Defender shall report and furnish the criminal defendant's request forms to the Office of the Prosecutor or the State Attorney General when they find that the information provided is fraudulent, and advise the criminal defendant that fraudulent information shall result in 60 days jail time or and addition of 60 days jail time to any sentence to be served consecutively."

EXHIBIT B
JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: RELATING TO DEFINITION OF INDIGENCY

PURPOSE: To promote fairness and consistency within our judicial system, it is proposed that the State of Hawai'i reconsider the current indigency definition, establish a screening program for financial need and third party review, and adopt a process which would clearly delineated the circumstances in which court-appointed counsel is necessary.

MEANS: Amend HRS 802-4 to:

- (a) Include a concrete definition of indigency to allow non-objective determination of annual income and other resources. Consider that if a criminal defendant is receiving some variety of public assistance, they may be deemed indigent;
- (c) Establish indigency at one hundred twenty-five percent (125%) or less of the current federally established poverty level;
- (d) Include a "partially indigent" designation, which requires criminal defendants to reimburse the state for a portion or all of the cost of court-appointed counsel;
- (e) Establish a uniform, well-defined screening process that includes an in-depth investigation of the applicant's financial circumstances to make an accurate determination as to whether the criminal defendant warrants government-funded public defense;
- (f) Require that "indigency" should be performed by an independent board, agency, or committee, or by judges not directly involved in the case,
- (g) Gather and verify substantial financial data including: biographical information and itemize any public assistance that the criminal defendant is receiving, criminal defendant and defendant's spouse's jobs, list assets (such as homes in any location, cars and investments); monthly expenses (food, rent, medical/dental), other debts, other persons living in the household (including children, dependants and contributing members of the household), provide space for listing more than one job, income provided to criminal defendant by individuals other than himself and his spouse, retirement benefits, any alimony/child support received, sporting equipment (such as boats and motorcycles), money owed to the criminal defendant, personal property of worth (such as appliances), other valuable property (such as gold, precious stones,

jewelry, works of art, farm equipment, etc.), and the amount of cash a criminal defendant has on hand;

- (h) Charge an application fee of at least \$100.00 for one or more misdemeanors and \$250 for one or more felonies to every person interested in receiving a public defender to pay for the cost of verification of financial information. If the criminal defendant cannot pay the fee in advance, the amount is added to the judgment and sentence if the criminal defendant is convicted. Utilize a promissory note for the application fee which the criminal defendant signs before the disposition of the case;
- (i) Devise a contribution plan for someone who is partially indigent to distinguish those who are truly indigent from those who can contribute limitedly to the cost of their counsel;
- (j) Require that the cases represented by public defenders are not chosen arbitrarily; and
- (k) Require Office of the Public Defender to report and furnish the criminal defendant's request forms to the Office of the Prosecutor (State Attorney General), when they find that the information provided is fraudulent, and advise the criminal defendant that fraudulent information shall result in 60 days jail time or and addition of 60 days jail time to any sentence to be served consecutively.

JUSTIFICATION:

The State of Hawai'i has limited resources, it is essential that we make certain that funding is appropriately disbursed. The technique that is currently in place to evaluate the need for and assign court-appointed counsel is inefficient and outdated; furthermore, it discourages both consistency and fairness. These changes will create a far more defined and regulated system, and will streamline the process of determining indigency, ensuring that the constitutional rights of indigent people are met equitably.

COUNTY OF HAWAI'I



STATE OF HAWAI'I

RESOLUTION NO. 289 12

A RESOLUTION TO REQUEST THAT THE HAWAI'I STATE ASSOCIATION OF COUNTIES SUBMIT WITH ITS 2013 LEGISLATIVE PACKAGE TO THE STATE LEGISLATURE AN AMENDMENT TO CHAPTER 244D, SECTION 244D-4, HAWAI'I REVISED STATUTES, RELATING TO INCREASING THE GALLONAGE TAX ON LIQUOR.

WHEREAS, Resolution 157-11 to request that the Hawai'i State Association of Counties submit with its 2012 Legislative Package to the State Legislature an amendment to Chapter 244D, Section 244D-4, Hawai'i Revised Statutes, relating to increasing the Gallonage Tax on Liquor was duly adopted by the Council on October 5, 2011; and

WHEREAS, according to "U.S. Department of Transportation, 2009", the County of Hawai'i has the highest percentage of fatalities caused by persons driving while under the influence of alcohol in the State of Hawai'i and in the nation; and

WHEREAS, residents and visitors who drive while under the influence of an intoxicant, or who continue to drive while under the influence of an intoxicant after being arrested, have created costly, emotional and physical pain, and inflicted tragic and intolerable situations for the people and families of the victims they injure and kill; and

WHEREAS, costs for first responders, fire fighters, EMS personnel, and police officers, costs for second responder, the Traffic Division, and costs for the Office of the Prosecuting Attorney, are paid for by the respective counties; and

WHEREAS, untold millions of dollars are spent by the counties to cover the cost of crashes and crash fatalities involving persons who drive while under the influence of an intoxicant; and

WHEREAS, whether occurring on a state or federal highway, expenses associated with these crashes and crash fatalities involving persons who drive while under the influence of an intoxicant accrue to the counties and are not currently reimbursed; and

WHEREAS, Section 291E, Hawai'i Revised Statutes, established the Blood Alcohol Content (BAC) for any criminal prosecution and, provides in pertinent part, as follows:

- (1) HRS section 291E-3(a): ".08 or more grams of alcohol per one hundred milliliters or cubic centimeters of the person's blood or .08 or more grams of alcohol per two hundred ten liters of the person's breath...within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the person's blood, breath, or urine shall be competent evidence that

the person was under the influence of an intoxicant at the time of the alleged violation.”

- (2) HRS section 291E-3(b)(1): “If there were .05 or less grams of alcohol per one hundred milliliters or cubic centimeters of defendant's blood or .05 or less grams of alcohol per two hundred ten liters of defendant's breath, it shall be presumed that the defendant was not under the influence of alcohol at the time of the alleged violation.”
- (3) HRS section 291E-3(b)(2): “If there were in excess of .05 grams of alcohol per one hundred milliliters or cubic centimeters of defendant's blood or .05 grams of alcohol per two hundred ten liters of defendant's breath, but less than .08 grams of alcohol per one hundred milliliters or cubic centimeters of defendant's blood or .08 grams of alcohol per two hundred ten liters of defendant's breath, that fact may be considered with other competent evidence in determining whether the defendant was under the influence of alcohol at the time of the alleged violation, but shall not of itself give rise to any presumption.”; and

WHEREAS, many people drive with a BAC between 0.05 and 0.08, and some of those people may be involved in crashes;

WHEREAS, from 1998 to 2011, the Consumer Price Index has increased by over thirty-five percent; and

WHEREAS, the gallonage tax on liquor has not been raised since 1998, and the following chart indicates the potential percentage increase and revenue that counties may receive; and

2010	Hawai'i	Maui	Kaua'i	O'ahu
Total Tax Revenues	\$5,849,036	\$6,447,013	\$2,774,765	\$29,888,254
increase 10%	\$584,904	\$644,701	\$277,477	\$2,988,825
increase 20%	\$1,169,807	\$1,289,403	\$554,953	\$5,977,651
increase 30%	\$1,754,711	\$1,934,104	\$832,430	\$8,966,476

WHEREAS, the following chart shows the current tax per gallon and the potential tax amount based on an increase of thirty percent per gallon; and

	Distilled Spirits	Sparkling Wine	Still Wine	Cooler Beverages	Beer other than Draft Beer	Draft Beer
Current Tax/Gallon	\$ 5.98	\$ 2.12	\$ 1.38	\$ 0.85	\$ 0.93	\$ 0.54
Increase Tax ~ 30%	7.78	2.76	1.80	1.11	1.21	0.70

WHEREAS, potential revenues received from a thirty per cent increase of the gallonage tax on liquor would supplement services provided by police, fire, emergency medical services, road cleanup, prosecution associated with crashes involving persons driving while under the influence of an intoxicant, and may also be used for training, equipment, and public service announcements; and

WHEREAS, the Council of the County of Hawai‘i supports a thirty percent increase of the gallonage tax on liquor as an additional source of revenue that would benefit all counties of the State of Hawai‘i; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I that the Hawai‘i State Association of Counties include in its 2013 Legislative Package, a draft bill to amend chapter 244D, section 244D-4, Hawai‘i Revised Statutes labeled “Exhibit A” and the justification sheet for this action labeled “Exhibit B.”

BE IT FURTHER RESOLVED that revenues received from this tax increase of approximately thirty percent per gallon of liquor shall be placed in a special fund, and the increased tax revenue collected pursuant to this Act shall be reimbursed to the counties, however, fines on the increased tax revenue shall be retained by the State of Hawai‘i for collection expense.

BE IT FURTHER RESOLVED that the counties shall use the increased revenue from the thirty per cent increase in gallonage tax on liquor to pay for Police, Fire, Emergency Medical Services, road clean-up, and prosecution associated with crashes involving driving while under the influence of an intoxicant, and increased tax revenue may also be used to cover expenses relating to training, equipment, and public service announcements associated with reducing occurrences of driving while under the influence of an intoxicant.

BE IT FURTHER RESOLVED that tax revenues from the thirty per cent increase in gallonage tax on liquor shall be kept in a special fund by each county, and be accounted for as a separate line item in their respective budgets.

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Honorable Neil Abercrombie, Governor of the State of Hawai'i, the Hawai'i State Association of Counties, the President of the State Senate, the Speaker of the State House of Representatives, the House Finance Committee Chairperson, and the respective Mayors of the counties of Hawai'i, Kaua'i, Maui, and the City and County of Honolulu.

Dated at _____, Hawai'i, this _____ day of _____, 2012.

INTRODUCED BY:

Mr. Brenda G. Ford

 COUNCIL MEMBER, COUNTY OF HAWAI'I

COUNTY COUNCIL
 County of Hawai'i
 Hilo, Hawai'i

I hereby certify that the foregoing RESOLUTION was by the vote indicated to the right hereof adopted by the COUNCIL of the County of Hawai'i on _____.

ATTEST:

COUNTY CLERK CHAIRPERSON & PRESIDING OFFICER

ROLL CALL VOTE

	AYES	NOES	ABS	EX
BLAS				
FORD				
HOFFMANN				
IKEDA				
ONISHI				
PILAGO				
SMART				
YAGONG				
YOSHIMOTO				

Reference: C-806/Waived GRC
 RESOLUTION NO. 289 12

EXHIBIT A

THE _____ .B. NO. _____

TWENTY-____ LEGISLATURE, 2013

STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO GALLONAGE TAX ON LIQUOR

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

SECTION 1. Section 244D-4, Hawaii Revised Statutes, is amended to read as follows:

"§244D-4 Tax; limitations. (a) Every person who sells or uses any liquor in the State not taxable under this chapter, in respect of the transaction by which the person or the person's vendor acquired the liquor, shall pay a gallonage tax which is hereby imposed at the following rates for the various liquor categories defined in section 244D-1:

For the period July 1, 1997, to June 30, 1998, the tax rate shall be:

- (1) \$5.92 per wine gallon on distilled spirits;
- (2) \$2.09 per wine gallon on sparkling wine;
- (3) \$1.36 per wine gallon on still wine;
- (4) \$0.84 per wine gallon on cooler beverages;
- (5) \$0.92 per wine gallon on beer other than draft beer;
- (6) \$0.53 per wine gallon on draft beer;

~~On~~ For the period July 1, 1998, [and thereafter,] to June 30, 2014, the tax rate shall be:

- (1) \$5.98 per wine gallon on distilled spirits;
- (2) \$2.12 per wine gallon on sparkling wine;
- (3) \$1.38 per wine gallon on still wine;
- (4) \$0.85 per wine gallon on cooler beverages;
- (5) \$0.93 per wine gallon on beer other than draft beer;

(6) \$0.54 per wine gallon on draft beer;

On July 1, 2013, and thereafter, the tax rate shall be:

(1) \$6.03 per wine gallon on distilled spirits;

(2) \$2.17 per wine gallon on sparkling wine;

(3) \$1.43 per wine gallon on still wine;

(4) \$0.90 per wine gallon on cooler beverages;

(5) \$0.98 per wine gallon on beer other than draft beer;

(6) \$0.59 per wine gallon on draft beer;

and at a proportionate rate for any other quantity so sold or used.

(b) Beginning July 1, 2014, the increase in the gallonage tax shall begin and the additional thirty percent per gallon collected shall be reimbursed to each county by the amount of additional gallonage tax collected from that county; however, fines on the increased tax revenue shall be retained by the State of Hawai'i to compensate it for the expense of collection. Tax revenues from this Act shall be kept by the respective counties in a special fund, and be accounted for as a separate line item in their respective budgets.

(c) The tax collected for the period July 1, 2014 and thereafter as set forth under subparagraph (a) above shall only be used to pay for Police, Fire, Emergency Medical Services, road clean-up, prosecution, and may also be used for training, the purchase of any equipment deemed necessary by the respective county departments, education and public service announcements utilized to reduce driving while under the influence of an intoxicant.

~~(b)~~ (d) The tax levied pursuant to subsection (a) shall be paid only once upon the same liquor; provided further that the tax shall not apply to:

(1) Liquor held for sale by a permittee but not yet sold;

(2) Liquor sold by one permittee to another permittee;

(3) Liquor which under the Constitution and laws of the United States cannot be legally subjected to the tax imposed by this chapter so long as and to the extent to which the State is without power to impose the tax;

(4) Liquor sold for sacramental purposes or the use of liquor for sacramental purposes, or any liquor imported pursuant to section 281-33; and

(5) Alcohol sold pursuant to section 281-37 to a person holding a purchase permit or prescription therefor, or any sale or use of alcohol, so purchased, for other than beverage purposes.”

EXHIBIT B

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: RELATING TO INCREASED GALLONAGE TAX ON LIQUOR.

PURPOSE: To increase gallonage tax on liquor by 30%, collect and transfer this additional revenue to the respective counties, and partially reimburse counties for cost of handling crashes and crash fatalities involving driving under the influence of an intoxicant.

MEANS: Amend HRS Chapter 244D-4 to increase the gallonage tax on liquor by 30%.

JUSTIFICATION: The high rate of crashes and crash fatalities involving driving under the influence of an intoxicant (alcohol), and the cost of resolving the crash and fatalities falls on the counties which justifies an increase in gallonage tax for liquor. Gallonage tax on liquor has not increased since 1998 while the Consumer Price Index has increased more than 35% in the same period of time. Resolving the crash involves police, fire, EMS, traffic division to clear the wreckage, and prosecution of the case in each county. These costs could be partially covered by an increase in gallonage tax for liquor.



OFFICE OF THE CITY CLERK
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077 / TELEPHONE 768-3810

BERNICE K. N. MAU
CITY CLERK

August 29, 2012

The Honorable Mel Rapozo
Member, Kauai County Council
3371-A Wilcox Road
Lihue, Hawaii 96766

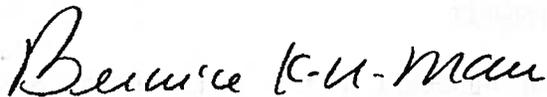
Dear Councilman Rapozo:

As directed by the following Resolutions adopted by the Council of the City and County of Honolulu at its meeting on Wednesday, August 15, 2012, copies are hereby transmitted for your information:

- | | |
|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Resolution 12-179 | Approving for inclusion in the 2013 Hawaii State Association of Counties legislative package a proposal that requires a prescription to purchase any product that contains pseudoephedrine |
| Resolution 12-180 | Approving for inclusion in the 2013 Hawaii State Association of Counties legislative package a proposal that creates a cause of action against a person who maintains a property nuisance on residential property |
| Resolution 12-181 | Approving for inclusion in the 2013 Hawaii State Association of Counties legislative package a proposal to allow voters to register on the day of an election |
| Resolution 12-182 | Approving for inclusion in the 2013 Hawaii State Association of Counties legislative package a proposal that urges the United States Department of State, the Department of Homeland Security, and the United States Attorney General to ease visa restrictions for the People's Republic of China |

- Resolution 12-183 Relating to the inclusion in the 2013 Hawaii State Association of Counties legislative package a proposal urging the Governor and the State Legislature to maintain the counties' share of the transient accommodations tax
- Resolution 12-184, CD1 Relating to the inclusion in the 2013 Hawaii State Association of Counties legislative package a proposal relating to the Employer-Union Health Benefits Trust Fund Board of Trustees
- Resolution 12-186 Approving for inclusion in the 2013 Hawaii State Association of Counties ("HSAC") legislative package a proposal that provides the counties with representation on the Board of Trustees of the Employees' Retirement System of the State
- Resolution 12-187 Approving for inclusion in the 2013 Hawaii State Association of Counties legislative package a proposal relating to electronic waste recycling
- Resolution 12-190 Approving nominees to the Board of Directors of the National Association of Counties and the Western Interstate Region
- Resolution 12-191 Relating to the inclusion in the 2013 Hawaii State Association of Counties legislative package a proposal transferring a portion of the fines and forfeitures from uncontested traffic infractions to the counties

Sincerely,



BERNICE K.N. MAU
City Clerk

ta

Attachments



RESOLUTION

APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL THAT REQUIRES A PRESCRIPTION TO PURCHASE ANY PRODUCT THAT CONTAINS PSEUDOEPHEDRINE.

WHEREAS, methamphetamine ("meth") use in states across the U.S., including Hawaii, is resulting in an enormous economic cost that the RAND Corporation's Drug Policy Research Center has estimated at \$23.4 billion in 2005; and

WHEREAS, in addition to the economic costs of meth use, the social costs are measured in destroyed lives, broken homes and other collateral damage that undermines the very fabric of our society; and

WHEREAS, according to the Hawaii Meth Project, the following recent statistics point to the growing problem in Hawaii:

- The economic cost of meth use in Hawaii is \$500 million annually for incarceration, foster care, healthcare, lost employee productivity and treatment;
- Of all federally-sentenced drug cases in Hawaii, 90% involve meth;
- Hawaii ranks number 2 in the nation for the percentage of drug-related treatment admissions that are meth-related;
- Workers in Hawaii are 4 times more likely to test positive for meth than the national average in workplace drug testing; and
- 56% of teens and young adults in Hawaii say meth would be easy to acquire, and 34% of teens and young adults report they have been offered the drug;

and

WHEREAS, a key factor in the prevalence and availability of meth is the widespread use of homes and apartments as meth labs, which use common ingredients to "cook" meth; and

WHEREAS, the key ingredient in meth that cannot be replaced is pseudoephedrine, found in many over-the-counter cold medicines; and



RESOLUTION

WHEREAS, while Hawaii state law currently restricts the amount of pseudoephedrine that can be obtained at any one time and mandates reporting requirements for pharmacies and retailers, it does not require a doctor's prescription to obtain pseudoephedrine (§329-75, HRS); and

WHEREAS, the manufacture and availability of meth in Hawaii has not been noticeably reduced as a result of current state law, and anecdotal evidence suggests that those involved in meth labs have found ways around Hawaii's law; and

WHEREAS, two states, Oregon and Mississippi, now require prescriptions for pseudoephedrine and have seen dramatic results including the following:

- Both states have reported a dramatic decline in meth labs, with the U.S. Drug Enforcement Agency reporting that the number of meth lab incidents (including labs, dump sites, and equipment) in Oregon, which has a longer history under the pseudoephedrine law, declined from 467 in 2004 to 12 in 2010;
- In Oregon, meth-related seizures and arrests are down 96% since 2006, while in Mississippi, seizures and arrests are down 66% since the law took effect mid-2010; and
- In Oregon, total crime has dropped to a 50-year low, and requests for meth-related treatment have dropped by 33%;

and

WHEREAS, the Council finds that requiring a prescription to obtain pseudoephedrine is a proven method of reducing the manufacture and availability of meth, which will directly result in reducing the levels of meth use and related economic costs in Hawaii; and

WHEREAS, the Council further finds that requiring a prescription to obtain pseudoephedrine is a reasonable restriction that is currently employed in the distribution of other controlled substances for medical reasons, namely all prescription drugs; and

WHEREAS, the unanimous approval of the county councils is necessary for inclusion of a proposal in the Hawaii State Association of County's legislative package; now, therefore,

____.B. NO.____

A BILL FOR AN ACT

RELATING TO PSEUDOEPHEDRINE.

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

1 SECTION 1. The legislature finds that methamphetamine is a
2 highly addictive drug with dangerous long-term side effects
3 including addiction, anxiety, insomnia, and violent behavior.
4 The legislature also finds that pseudoephedrine, a safe,
5 effective, and widely-used over the counter decongestant, is an
6 essential ingredient used to make methamphetamine.

7 The legislature finds that some state governments have
8 taken steps to address the growing number of methamphetamine
9 labs in their states. Oregon and Mississippi have passed laws
10 requiring prescriptions for pseudoephedrine. The purpose of
11 this Act is to classify pseudoephedrine as a schedule V drug
12 that may only be dispensed with a prescription.

13 SECTION 2. Section 329-22, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§329-22 Schedule V.

____.B. NO. _____

1 (a) The controlled substances listed in this section are
2 included in schedule V.

3 (b) Narcotic drugs containing nonnarcotic active medicinal
4 ingredients. Any compound, mixture, or preparation containing
5 limited quantities of any of the following narcotic drugs, which
6 also contains one or more nonnarcotic active medicinal
7 ingredients in sufficient proportion to confer upon the
8 compound, mixture, or preparation, valuable medicinal qualities
9 other than those possessed by the narcotic drug alone:

10 (1) Not more than 200 milligrams of codeine, or any
11 of its salts, per 100 milliliters or per 100
12 grams;

13 (2) Not more than 100 milligrams of hydrocodeine, or
14 any of its salts, per 100 milliliters or per 100
15 grams;

16 (3) Not more than 100 milligrams of ethylmorphine, or
17 any of its salts, per 100 milliliters or per 100
18 grams;

1 (4) Not more than 2.5 milligrams of diphenoxylate and
2 not less than 25 micrograms of atropine sulfate
3 per dosage unit;

4 (5) Not more than 100 milligrams of opium per 100
5 milliliters or per 100 grams; and

6 (6) Not more than 0.5 milligram of difenoxin and not
7 less than 25 micrograms of atropine sulfate per
8 dosage unit.

9 (c) Stimulants. Unless specifically exempted or excluded
10 or unless listed in another schedule, any material, compound,
11 mixture, or preparation that contains any quantity of the
12 following substances having a stimulant effect on the central
13 nervous system, including its salts, isomers, and salts of
14 isomers[+]: pseudoephedrine or any drug containing
15 pseudoephedrine.

16 (d) Depressants. Unless specifically exempted or excluded
17 or unless listed in another schedule, any material, compound,
18 mixture, or preparation that contains any quantity of the
19 following substances having a depressant effect on the central

1 nervous system, including its salts, isomers, and salts of
2 isomers:

3 (1) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-
4 propionamide], (Vimpat); and

5 (2) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic
6 acid].

7 (e) No later than July 1, 2013, all drugs containing
8 pseudoephedrine shall be subject to the requirements of section
9 329-38."

10 SECTION 3. Section 329-38, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) No controlled substance in schedule II or
13 pseudoephedrine may be dispensed without a written prescription
14 of a practitioner, [~~except~~] with the following exceptions:

15 (1) [~~In~~] For purposes of a controlled substance in
16 schedule II or pseudoephedrine, in the case of an
17 emergency situation, a pharmacist may dispense a
18 controlled substance listed in schedule II or
19 pseudoephedrine upon receiving oral authorization
20 from a prescribing practitioner; provided that:

_____ .B. NO. _____

1 pharmacist. In addition to conforming to
2 the requirements of this subsection, the
3 prescription shall have written on its face
4 "Authorization for Emergency Dispensing".
5 The written prescription may be delivered to
6 the pharmacist in person or by mail, and if
7 by mail, the prescription shall be
8 postmarked within the seven-day period.
9 Upon receipt, the dispensing pharmacist
10 shall attach this prescription to the oral
11 emergency prescription, which had earlier
12 been reduced to writing. The pharmacist
13 shall notify the administrator if the
14 prescribing practitioner fails to deliver a
15 written prescription to the pharmacy within
16 the allotted time. Failure of the
17 pharmacist to do so shall void the authority
18 conferred by this paragraph to dispense
19 without a written prescription of a
20 prescribing individual practitioner. Any

1 practitioner who fails to deliver a written
2 prescription within the seven-day period
3 shall be in violation of section
4 329-41(a)(1); or

5 (2) When dispensed directly by a practitioner, other
6 than a pharmacist, to the ultimate user. The
7 practitioner in dispensing a controlled substance
8 in schedule II shall affix to the package a label
9 showing:

- 10 (A) The date of dispensing;
- 11 (B) The name, strength, and quantity of the drug
12 dispensed;
- 13 (C) The dispensing practitioner's name and
14 address;
- 15 (D) The name of the patient;
- 16 (E) The "use by" date for the drug, which shall
17 be:
 - 18 (i) The expiration date on the
19 [manufacturer's] or principal labeler's
20 container; or

____.B. NO. _____

- 1 (ii) One year from the date the drug is
2 dispensed, whichever is earlier; and
3 (F) Directions for use, and cautionary
4 statements, if any, contained in the
5 prescription or as required by law.

6 A complete and accurate record of all schedule II
7 controlled substances ordered, administered, prescribed, and
8 dispensed shall be maintained for five years. Prescriptions and
9 records of dispensing shall otherwise be retained in conformance
10 with the requirements of section 329-36. No prescription for a
11 controlled substance in schedule II may be refilled."

12 SECTION 4. Section 329-64, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The requirements imposed by sections 329-62 and
15 329-63(a) of this part shall not apply to any of the following:

- 16 (1) Any pharmacist or other authorized person who
17 sells or furnishes a substance upon the
18 prescription of a physician, dentist, podiatrist,
19 or veterinarian;

____.B. NO. _____

- 1 (2) Any physician, dentist, podiatrist, or
- 2 veterinarian who administers or furnishes a
- 3 substance to patients;
- 4 (3) Any manufacturer or wholesaler licensed by the
- 5 State who sells, transfers, or otherwise
- 6 furnishes a substance to a licensed pharmacy,
- 7 physician, dentist, podiatrist, or veterinarian[;
- 8 and
- 9 (4) Any sale, transfer, furnishing, or receipt of any
- 10 drug that contains [~~pseudoephedrine or~~
- 11 norpseudoephedrine that is lawfully sold,
- 12 transferred, or furnished over the counter
- 13 without a prescription pursuant to the federal
- 14 Food, Drug, and Cosmetic Act (21 United States
- 15 Code section 301 et seq.) or regulations adopted
- 16 thereunder as long as it complies with the
- 17 requirements of sections [~~329-73, 329-74, and~~
- 18 ~~329-75.~~] 329-38."
- 19

1 SECTION 5. Section 329-75, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§329-75 [~~Sales of products, mixtures, or preparations~~
4 ~~containing pseudoephedrine; reporting]~~ Reporting requirement for
5 wholesalers.

6 [~~(a) Notwithstanding any other law to the contrary, a~~
7 ~~pharmacy or retailer may sell or distribute to a person without~~
8 ~~a prescription products containing not more than 3.6 grams per~~
9 ~~day or not more than nine grams per thirty-day period of~~
10 ~~pseudoephedrine, without regard to the number of transactions;~~
11 ~~provided that the pharmacy or retailer shall comply with the~~
12 ~~following conditions:~~

13 (1) ~~The product, mixture, or preparation shall be~~
14 ~~sold or distributed from an area not accessible~~
15 ~~by customers or the general public, such as~~
16 ~~behind the counter or in a locked display case~~
17 ~~and where the pharmacy or retailer delivers the~~
18 ~~product directly into the custody of the person~~
19 ~~purchasing or obtaining the substances;~~

____.B. NO. _____

1 ~~(2) Any person purchasing or otherwise obtaining any~~
2 ~~product, mixture, or preparation shall produce~~
3 ~~valid, government-issued identification~~
4 ~~containing the photograph, date of birth, printed~~
5 ~~name, signature, and address of the person~~
6 ~~purchasing or obtaining the substance;~~

7 ~~(3) The pharmacy or retailer shall maintain a written~~
8 ~~or electronic log of required information for~~
9 ~~each sale of a nonprescription product containing~~
10 ~~pseudoephedrine, including:~~

11 ~~(A) The date and time of any transaction under~~
12 ~~paragraph (2);~~

13 ~~(B) The name, address, and date of birth of the~~
14 ~~person purchasing or obtaining the~~
15 ~~substance;~~

16 ~~(C) The type of identification provided by the~~
17 ~~person purchasing or obtaining the substance~~
18 ~~and identification number;~~

19 ~~(D) The agency issuing the identification used;~~
20 ~~and~~

~~1 State without a charge for accessing the system. The pharmacy
2 or retailer shall not complete the sale if the system generates
3 a stop sale alert. Except in the case of negligence,
4 wantonness, recklessness, or deliberate misconduct, any pharmacy
5 or retailer using the electronic sales tracking system in
6 accordance with this subsection shall not be civilly liable as a
7 result of any act or omission in carrying out the duties
8 required by this subsection and shall be immune from liability
9 to any third party, unless the pharmacy or retailer has violated
10 this subsection, in relation to a claim brought for such
11 violation.~~

~~12 (c) If a pharmacy or retailer selling an over-the-counter
13 product containing pseudoephedrine experiences mechanical or
14 electronic failure of the electronic sales tracking system and
15 is unable to comply with the electronic sales tracking
16 requirement under this section, the pharmacy or retailer shall
17 maintain a written log or an alternative electronic
18 recordkeeping mechanism until such time as the pharmacy or
19 retailer is able to comply with the electronic sales tracking
20 requirement.~~

1 ~~(d) A pharmacy or retailer selling an over-the-counter~~
2 ~~product containing pseudoephedrine may seek an exemption from~~
3 ~~submitting transactions to the electronic sales tracking system~~
4 ~~in writing to the administrator stating the reasons therefore.~~
5 ~~The administrator may grant an exemption for good cause shown,~~
6 ~~but in no event shall the exemption exceed one hundred eighty~~
7 ~~days. Any pharmacy or retailer that receives an exemption shall~~
8 ~~maintain a hard copy log and shall require the person purchasing~~
9 ~~or obtaining the substance to provide the information required~~
10 ~~under this section before completion of any sale. The log shall~~
11 ~~be maintained as a record of each sale for inspection by any law~~
12 ~~enforcement officer or inspector of the board of pharmacy during~~
13 ~~normal business hours.~~

14 ~~(e) The National Association of Drug Diversion~~
15 ~~Investigators shall forward Hawaii transaction records in the~~
16 ~~National Precursor Log Exchange to the narcotics enforcement~~
17 ~~division of the department of public safety weekly and provide~~
18 ~~real-time access to National Precursor Log Exchange information~~
19 ~~through the National Precursor Log Exchange online portal to law~~
20 ~~enforcement in the State as authorized by the narcotics~~

~~1 day or more than nine grams per thirty-day period of
2 pseudoephedrine, except that this limit shall not apply to any
3 quantity of such product, mixture, or preparation dispensed
4 pursuant to a valid prescription.~~

~~5 (h) Any person who violates subsections (b) through (g) is
6 guilty of a class C felony.~~

~~7 (i) The department, by rule, may exempt other products
8 from this section, if the administrator finds that the products
9 are not used in the illegal manufacture of methamphetamine or
10 other controlled substances. A manufacturer of a drug product
11 may apply for removal of the product from this section if the
12 product is determined by the administrator to have been
13 formulated in such a way as to effectively prevent the
14 conversion of the active ingredient into methamphetamine.~~

~~15 (j)] Notwithstanding any other provision of this chapter
16 to the contrary, every wholesaler shall report to the
17 administrator all sales made to any retailer, of any product,
18 mixture, or preparation containing any detectable quantity of
19 pseudoephedrine, its salts, optical isomers, or salts of optical
20 isomers, as the only active ingredient or in combination with~~

1 other active ingredients. The department shall provide a common
2 reporting form that contains at least the following information
3 about the product, mixture, or preparation:

- 4 (1) Generic or other name;
- 5 (2) Quantity sold;
- 6 (3) Date of sale;
- 7 (4) Name and address of the wholesaler; and
- 8 (5) Name and address of the retailer.

9 ~~[(k) Intentional or knowing failure of a retailer or~~
10 ~~pharmacy to transmit any information as required by this section~~
11 ~~shall be a misdemeanor and shall result in the immediate~~
12 ~~suspension of that retailer's ability to sell any product,~~
13 ~~mixture, or preparation containing any detectable quantity of~~
14 ~~pseudoephedrine, its salts, optical isomers, or salts of optical~~
15 ~~isomers as the only active ingredient or in combination with~~
16 ~~other active ingredients until authorized by the~~
17 ~~administrator."]~~

18 SECTION 6. Section 329-73, Hawaii Revised Statutes, is
19 repealed.

20 [~~§329-73 Pseudoephedrine permit.~~]

____.B. NO. _____

1 ~~(a) Beginning January 1, 2006, any person transporting by~~
2 ~~any means more than three packages of any product the sale of~~
3 ~~which is restricted by section 329-75 shall obtain a~~
4 ~~pseudoephedrine permit.~~

5 ~~(b) The requirements imposed by [subsection] (a) shall not~~
6 ~~apply to persons registered with the department under section~~
7 ~~329-67. A pseudoephedrine permit shall be issued by the~~
8 ~~department in a form and manner as prescribed by the department~~
9 ~~by rule. A pseudoephedrine permit shall be valid for one year~~
10 ~~and renewable annually."]~~

11 SECTION 7. Section 329-74, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§329-74 Unlawful transport of pseudoephedrine.—~~

14 ~~(a) A person commits the offense of unlawful transport of~~
15 ~~pseudoephedrine if the person transports more than three~~
16 ~~packages of any product the sale of which is restricted by~~
17 ~~section 329-75 without a permit issued from the department.~~

18 ~~(b) For purposes of this section, "transportation" means~~
19 ~~the transfer of a pseudoephedrine product by a person other than~~

____.B. NO. _____

1 ~~a wholesaler, distributor, or retailer of such product~~
2 ~~authorized to conduct business as such by the State.~~

3 ~~(c) Unlawful transport of pseudoephedrine is a~~
4 ~~misdemeanor."]~~

5 SECTION 8. This Act does not affect the rights and duties
6 that matured, penalties that were incurred, and proceedings that
7 were begun before its effective date.

8 SECTION 9. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 10. This Act shall take effect upon its approval.

11

12

INTRODUCED BY: _____

13

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-179

Introduced: 07/18/12 By: ERNEST MARTIN

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A PROPOSAL THAT REQUIRES A PRESCRIPTION TO PURCHASE ANY
PRODUCT THAT CONTAINS PSEUDOEPHEDRINE.

Links: [RES12-179](#)
[CR-246](#)

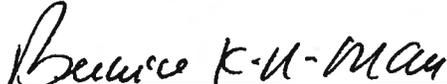
Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

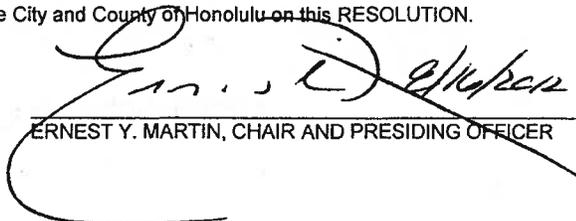
EXECUTIVE 07/24/12 CR-246 -- RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.
MATTERS AND
LEGAL AFFAIRS

COUNCIL 08/15/12 CR-246 AND RESOLUTION 12-179 WERE ADOPTED.

ANDERSON	Y*	BERG	N	CACHOLA	A	CHANG	Y	GABBARD	N
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



RESOLUTION

APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL THAT CREATES A CAUSE OF ACTION AGAINST A PERSON WHO MAINTAINS A PROPERTY NUISANCE ON RESIDENTIAL PROPERTY.

WHEREAS, the State of Hawaii continues to be one of the most expensive states in the nation to purchase a home and as such, a home will be the largest financial asset for most of Hawaii's citizenry; and

WHEREAS, maintaining the aesthetics of residential real property protects both the natural beauty of our local neighborhoods and local home owners' financial investments; and

WHEREAS, real estate investors have purchased large blocks of residential property only to then engage in the blighting of these same properties and have no intention of residing in the affected communities; and

WHEREAS, this practice is commonly called "block busting" and seeks to lower the neighborhood's overall property values, thereby enabling unscrupulous real estate investors to purchase additional surrounding properties in the same neighborhoods at lowered prices; and

WHEREAS, as a result of "block busting," homeowners in the affected neighborhoods will see the value of their largest financial asset decline through no dereliction on the homeowners' part; and

WHEREAS, homeowners in blighted neighborhoods also face health and safety hazards, such as, increases in trespassers, graffiti and vermin populations; and

WHEREAS, the most effective tool to combat "block busting" is the creation and imposition of liability damages to financially deter real estate investors from engaging in property blighting; now, therefore,

BE IT RESOLVED that the Council of the City and County of Honolulu approves for inclusion in the 2013 legislative package a proposal, attached as Exhibit A, that creates a cause of action against a person who maintains a property nuisance on residential property that results in damage or injury to the person or property of another person; and



RESOLUTION

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the President of the Hawaii State Association of Counties and the Mayors of the counties of Kauai, Hawaii, Honolulu and Maui.

INTRODUCED BY:

[Handwritten Signature]

DATE OF INTRODUCTION:

JUL 18 2012

Honolulu, Hawaii

Councilmembers

2012 JUL 18 6H 3:14
C & C OF HONOLULU
CITY CLERK
RECEIVED

A BILL FOR AN ACT

Exhibit A

____.B. NO.____

A BILL FOR AN ACT

RELATING TO LANDOWNER LIABILITY.

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

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663- Liability for maintenance of property nuisance.

5 (a) A person may be held personally liable in damages for
6 injury or trespass, whether direct or indirect, including the
7 diminution of property valuation, to another person or the
8 property of the other person proximately caused by the
9 maintenance of a residentially zoned property nuisance.

10 (b) If a person engages in conduct that constitutes the
11 maintenance of a property nuisance involving three or more
12 residentially zoned separate properties within a one mile radius
13 from a claim arising pursuant to this section and judgment is
14 entered for the person who is asserting the claim under this
15 section, the person shall be awarded a sum equal to threefold
16 damages sustained by that person.

1 (c) For purposes of this section, "maintenance of a
2 property nuisance" means owning, leasing, occupying, or having
3 charge, possession, or control of any property and maintaining
4 that property in a manner in which any one or more of the
5 following conditions or activities is allowed to exist or
6 continue:

7 (1) Keeping, storing, depositing, or accumulating on
8 improved or unimproved real property any personal
9 property that constitutes visual blight.

10 Personal property includes:

11 (A) Abandoned, wrecked, or dismantled motor
12 vehicles or boats or vessels;

13 (B) Automotive parts and equipment, appliances,
14 and furniture;

15 (C) Containers, packing materials, scrap metal,
16 wood, building materials, concrete masonry
17 units, litter, garbage, junk, rubbish, and
18 debris; and

19 (D) Any material that constitutes an offense of
20 displaying indecent matter under section
21 712-1211;

____.B. NO. _____

- 1 (2) Keeping, storing, depositing, or accumulating
- 2 dirt, sand, gravel, concrete, or other similar
- 3 materials that constitute visual blight;
- 4 (3) Operating a junk yard or automobile dismantling
- 5 yard, except as a permitted use;
- 6 (4) Permitting standing or stagnant water to
- 7 accumulate, allowing vermin and insects to live,
- 8 breed, and multiply;
- 9 (5) Creating, permitting, or maintaining any
- 10 dangerous or unsightly condition that constitutes
- 11 visual blight;
- 12 (6) Attracting and providing a place of temporary
- 13 abode for vagrants, interlopers, or trespassers;
- 14 and
- 15 (7) Creating, permitting, or maintaining any
- 16 condition recognized in law or in equity as
- 17 constituting a public nuisance.

18 (d) Nothing in this section shall be deemed to create
19 liability:

- 20 (1) If the defendant's property or properties are not
- 21 zoned exclusively for residential use;

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-180

Introduced: 07/18/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A PROPOSAL THAT CREATES A CAUSE OF ACTION AGAINST A PERSON
WHO MAINTAINS A PROPERTY NUISANCE ON RESIDENTIAL PROPERTY.

Links: [RES12-180](#)
[CR-247](#)

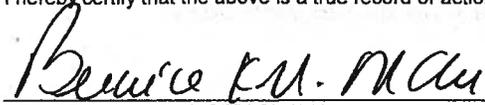
Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

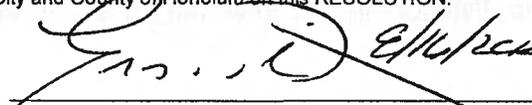
EXECUTIVE 07/24/12 CR-247 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.
MATTERS AND
LEGAL AFFAIRS

COUNCIL 08/15/12 CR-247 AND RESOLUTION 12-180 WERE ADOPTED.

ANDERSON	A	BERG	N	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



RESOLUTION

APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL TO ALLOW VOTERS TO REGISTER ON THE DAY OF AN ELECTION.

WHEREAS, citizens of Hawaii do not have an absolute constitutional right to vote because the state constitution allows a citizen to vote only if that citizen is first registered to vote; and

WHEREAS, the civic rights of Hawaii's citizens to govern through representational government via voting for elected officials should not be overly hindered by procedural voter registration requirements; and

WHEREAS, Section 11-24, Hawaii Revised Statutes, requires voters to register 30 days in advance to vote in a primary, general or special election; and

WHEREAS, in 2010, only 36 percent of eligible Hawaii citizens turned out to vote according to the United States Elections Project; and

WHEREAS, Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, North Carolina, Wisconsin and Wyoming allow voters to register and vote on the same day; and

WHEREAS, those nine states have realized increased voter turnout since the enactment of same day registration legislation, with up to a 17 percent higher voter turnout rate than the national average; and

WHEREAS, removal of the 30 day registration requirement and allowing citizens to register to vote on election day will increase the convenience and ease for Hawaii's eligible citizenry to turn out to vote; now, therefore,

BE IT RESOLVED that the Council of the City and County of Honolulu approves for inclusion in the 2013 legislative package a proposal, attached as Exhibit A, to allow voters to register on the day of an election; and



RESOLUTION

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the President of the Hawaii State Association of Counties and the Mayors of the counties of Kauai, Hawaii, Honolulu and Maui.

INTRODUCED BY:

[Handwritten Signature]

DATE OF INTRODUCTION:

JUL 18 2012

Honolulu, Hawaii

Councilmembers

41:3:14
JUL 18 2012
CITY CLERK
RECEIVED

_____ .B. NO. _____

A BILL FOR AN ACT

RELATING TO VOTING.

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

1 SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§11- Election day voter registration.

5 (a) Notwithstanding any law to the contrary, an individual
6 who is eligible to vote may register on the day of an election
7 by:

8 (1) Appearing in person at the polling place for the
9 precinct in which the voter maintains residency;

10 (2) Completing a voter registration application;

11 (3) Making an oath on a form prescribed by the chief
12 election officer; and

13 (4) Providing proof of residency;

14 provided that in the case of an election conducted by mail, an
15 individual who is eligible to vote may register at the walk-in
16 locations in the same manner as prescribed in paragraphs (1)
17 through (4).

.B. NO.

1 (b) An individual may prove residency for purposes of this
2 section by presenting:

3 (1) A valid Hawaii driver's license or Hawaii state
4 identification card; or

5 (2) Any documentation approved by the chief election
6 officer.

7 (c) No precinct official shall receive the vote of any
8 individual who is not registered pursuant to subsection (a) or
9 section 11-15.

10 (d) The chief election officer or the chief election
11 officer's designee shall maintain a record of the number of
12 individuals who registered to vote on election day and voted, as
13 well as the number of individuals who attempted to register on
14 election day, but were unable to provide proof of residency
15 pursuant to subsection (b). The record shall be included with
16 the election returns for each precinct.

17 (e) The chief election officer shall establish rules
18 pursuant to chapter 91, as necessary to carry out this section."

19 SECTION 3. New statutory material is underscored.

20 SECTION 4. This Act shall take effect upon its approval.

21

22

INTRODUCED BY: _____

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-181

Introduced: 07/18/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A PROPOSAL TO ALLOW VOTERS TO REGISTER ON THE DAY OF AN
ELECTION.

Links: [RES12-181](#)
[CR-248](#)

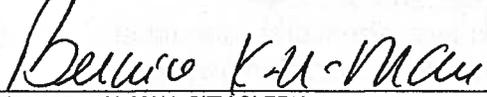
Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

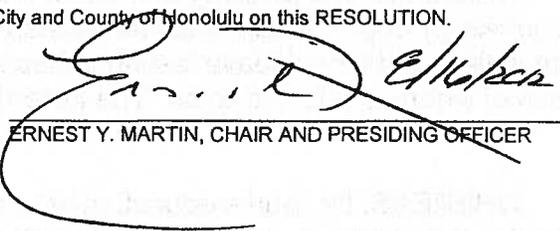
EXECUTIVE 07/24/12 CR-248 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.
MATTERS AND
LEGAL AFFAIRS

COUNCIL 08/15/12 CR-248 AND RESOLUTION 12-181 WERE ADOPTED.

ANDERSON	A	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



RESOLUTION

APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL THAT URGES THE UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF HOMELAND SECURITY, AND THE UNITED STATES ATTORNEY GENERAL TO EASE VISA RESTRICTIONS FOR THE PEOPLE'S REPUBLIC OF CHINA.

WHEREAS, China and her people have long been a part of the economy and culture of Hawaii since the first Chinese sugar plantation laborers arrived in the islands in 1852; and

WHEREAS, the first one hundred seventy-five laborers were from Hong Kong bound for Maui—most of them from depression-torn Guangdong and Fujian in southern China; and

WHEREAS, from 1852 to 1876, nearly 4,000 Chinese laborers migrated to Hawaii; and by 1882, these *huaqiao* or migrants made up almost 49 percent of plantation labor, outnumbering Caucasians in the islands; and

WHEREAS, the progeny of these humble but determined Chinese immigrants rose quickly through the ranks of Hawaii's educational, political, and business communities, and would leave lasting impacts on Hawaii and even the world—the most famous of whom is referred to as "The Forerunner of the Revolution," Dr. Sun Yat-sen; and

WHEREAS, Dr. Sun's education at Iolani School and Oahu College inspired him to develop the vision of an educated, strong, and democratic, modern-day China that he would dedicate the rest of his life to building, and would later say that Hawaii was where he "came to know what modern, civilized governments are like and what they mean"; and

WHEREAS, Dr. Sun established the first Chinese revolutionary party, called *Xing Zhong Hui* or Revive China Society, and returned to Hawaii five more times at which time many Hawaii families contributed financially to his cause; and

WHEREAS, the Counties of Hawaii Sister-Cities Summit held in Honolulu on September 13-15, 2011, highlighted the inextricable and historic ties between China and Hawaii with a particular emphasis on strengthening our relationships with Honolulu's sister cities of Zhongshan, Haikou, Qinhuangdao, and Chengdu; and



RESOLUTION

WHEREAS, the summit demonstrated that China will continue to embrace our open door policy and fortified our understanding of each other's needs in the areas of cultural exchange, economic development, trade, tourism, and education; and

WHEREAS, recently, members of Hawaii's business and government communities welcomed 271 passengers at Honolulu International Airport from China Eastern Airlines' inaugural direct flight from Shanghai, heralding a new era for Honolulu's economic growth and forging closer ties between the United States and China; and

WHEREAS, the People's Republic of China, with its 1.3 billion people, represents a very large and lucrative pool of visitors, as the average Chinese tourist to Hawaii is expected to spend about \$368 per day, compared to \$275 daily for every Japanese tourist and just \$178 per day, on average, for all tourists to Hawaii; and

WHEREAS, tourism dollars have been identified by the United States Department of Commerce as an *export*, and President Barack Obama's National Export Initiative of May 2010 seeks to double U.S. exports by 2015; and

WHEREAS, China has transformed itself from an impoverished country to the world's second largest economy, and as it grows, continues to have an impact on Hawaii and the globe; and

WHEREAS, China is now a major trade partner with the United States and force for stability and peace in Asia, and has become a world leader in the auto market and the world's largest producer of energy; and

WHEREAS, in spite of the reciprocity between China and Hawaii, the visa application and approval process for Chinese business and tourist travelers is an arduous and often lengthy process which deters many potential visitors to Hawaii and the United States; and

WHEREAS, a Chinese citizen who wishes to visit the United States must appear in person before a U.S. consulate official to obtain the visa but there are only five U.S. consulates in the entire People's Republic of China; and

WHEREAS, due to the small number of consulates and staff to handle the in-person interviews necessary for entry visas, the average wait times for those interviews in China far exceed those wait times in other countries; and



RESOLUTION

WHEREAS, one solution to ease this problem is for a country to be admitted to the U.S. State Department's Visa Waiver Program, which allows nationals from foreign countries to enter the United States for tourism- or business-related purposes for as long as 90 days without obtaining a visa; and

WHEREAS, both Japan and South Korea qualify for visa waivers; and

WHEREAS, when South Korea became one of the 36 countries in the State Department's Visa Waiver Program in November of 2008, it boosted tourism to Hawaii from that country; and

WHEREAS, in order for a country to qualify for the Visa Waiver Program, the country must satisfy certain conditions, with the United States government retaining the ultimate discretion to admit the country to the program; and

WHEREAS, one condition for entry into the waiver program is the rate of refusal of a country's visa applicants which must be three percent or lower; and

WHEREAS, the refusal rate for Chinese visa applicants was 13.3 percent as of 2010; and

WHEREAS, the Travel and Tourism Advisory Board, a newly created industry group appointed by the U.S. Secretary of Commerce, recommended measures that can be taken to increase travel to the U.S. from China, which include: (1) raising the visa refusal rate from three to 10 percent; (2) establishing a maximum wait time for in-person visa interviews of five days; (3) adding four to six visa processing locations and several hundred consulate officers to process visas; and (4) allowing non-immigrant visas to last 10 years for Chinese visitors, which is permitted in other countries; and

WHEREAS, the unanimous approval of the county councils is necessary for inclusion of a proposal in the Hawaii State Association of County's legislative package; now, therefore,

BE IT RESOLVED that the Council of the City and County of Honolulu approves for inclusion in the 2013 legislative package a proposal, attached as Exhibit A, that urges the United States Department of State, the Department of Homeland Security, and the United States Attorney General to include the People's Republic of China in the Visa Waiver Program and support the recommendations of the Travel and Tourism Advisory Board to ease visa restrictions and the visa application and approval process for business and tourist travelers from the People's Republic of China; and



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 12-182

RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the President of the Hawaii State Association of Counties and the Mayors of the counties of Kauai, Hawaii, Honolulu, and Maui.

INTRODUCED BY:

[Handwritten Signature]

DATE OF INTRODUCTION:

JUL 18 2012

Honolulu, Hawaii

Councilmembers

JUL 18 11 31 AM
CITY OF HONOLULU
RECEIVED

__ .C.R. NO. __

CONCURRENT
RESOLUTION

URGING THE UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF
HOMELAND SECURITY, AND THE UNITED STATES ATTORNEY GENERAL
TO EASE VISA RESTRICTIONS FOR THE PEOPLE'S REPUBLIC OF
CHINA.

1 WHEREAS, China and her people have long been a part of the
2 economy and culture of Hawaii since the first Chinese sugar
3 plantation laborers arrived in the islands in 1852; and

4 WHEREAS, the first one hundred seventy-five laborers were
5 from Hong Kong bound for Maui--most of them from depression-torn
6 Guangdong and Fujian in southern China; and

7 WHEREAS, from 1852 to 1876, nearly 4,000 Chinese laborers
8 migrated to Hawaii; and by 1882, these *huaqiao* or migrants made
9 up almost 49 percent of plantation labor, outnumbering
10 Caucasians in the islands; and

11 WHEREAS, the progeny of these humble but determined Chinese
12 immigrants rose quickly through the ranks of Hawaii's
13 educational, political, and business communities, and would
14 leave lasting impacts on Hawaii and even the world--the most

1 famous of whom is referred to as "The Forerunner of the
2 Revolution," Dr. Sun Yat-sen; and

3 WHEREAS, Dr. Sun's education at Iolani School and Oahu
4 College inspired him to develop the vision of an educated,
5 strong, and democratic, modern-day China that he would dedicate
6 the rest of his life to building, and would later say that
7 Hawaii was where he "came to know what modern, civilized
8 governments are like and what they mean"; and

9 WHEREAS, Dr. Sun established the first Chinese
10 revolutionary party, called *Xing Zhong Hui* or Revive China
11 Society, and returned to Hawaii five more times at which time
12 many Hawaii families contributed financially to his cause; and

13 WHEREAS, the Counties of Hawaii Sister-Cities Summit held
14 in Honolulu on September 13-15, 2011 highlighted the
15 inextricable and historic ties between China and Hawaii with a
16 particular emphasis on strengthening our relationships with
17 Honolulu's sister cities of Zhongshan, Haikou, Qinhuangdao, and
18 Chengdu; and

19 WHEREAS, the summit demonstrated that China will continue
20 to embrace our open door policy and fortified our understanding
21 of each other's needs in the areas of cultural exchange,
22 economic development, trade, tourism, and education; and

1 WHEREAS, recently, members of Hawaii's business and
2 government communities welcomed 271 passengers at Honolulu
3 International Airport from China Eastern Airlines' inaugural
4 direct flight from Shanghai, heralding a new era for Honolulu's
5 economic growth and forging closer ties between the United
6 States and China; and

7 WHEREAS, the People's Republic of China, with its 1.3
8 billion people, represents a very large and lucrative pool of
9 visitors, as the average Chinese tourist to Hawaii is expected
10 to spend about \$368 per day, compared to \$275 daily for every
11 Japanese tourist and just \$178 per day, on average, for all
12 tourists to Hawaii; and

13 WHEREAS, tourism dollars have been identified by the United
14 States Department of Commerce as an *export*, and President Barack
15 Obama's National Export Initiative of May 2010 seeks to double
16 U.S. exports by 2015; and

17 WHEREAS, China has transformed itself from an impoverished
18 country to the world's second largest economy, and as it grows,
19 continues to have an impact on Hawaii and the globe; and

20 WHEREAS, China is now a major trade partner with the United
21 States and force for stability and peace in Asia, and has become

1 a world leader in the auto market and the world's largest
2 producer of energy; and

3 WHEREAS, in spite of the reciprocity between China and
4 Hawaii, the visa application and approval process for Chinese
5 business and tourist travelers is an arduous and often lengthy
6 process which deters many potential visitors to Hawaii and the
7 United States; and

8 WHEREAS, a Chinese citizen who wishes to visit the United
9 States must appear in person before a U.S. consulate official to
10 obtain the visa but there are only five U.S. consulates in the
11 entire People's Republic of China; and

12 WHEREAS, due to the small number of consulates and staff to
13 handle the in-person interviews necessary for entry visas, the
14 average wait times for those interviews in China far exceed
15 those wait times in other countries; and

16 WHEREAS, one solution to ease this problem is for a country
17 to be admitted to the U.S. State Department's Visa Waiver
18 Program, which allows nationals from foreign countries to enter
19 the United States for tourism- or business-related purposes for
20 as long as 90 days without obtaining a visa; and

1 WHEREAS, both Japan and South Korea qualify for visa
2 waivers; and

3 WHEREAS, when South Korea became one of the 36 countries in
4 the State Department's Visa Waiver Program in November of 2008,
5 it boosted tourism to Hawaii from that country; and

6 WHEREAS, in order for a country to qualify for the Visa
7 Waiver Program, the country must satisfy certain conditions;
8 with the United States government retaining the ultimate
9 discretion to admit the country to the program; and

10 WHEREAS, one condition for entry into the waiver program is
11 the rate of refusal of a country's visa applicants which must be
12 three percent or lower; and

13 WHEREAS, the refusal rate for Chinese visa applicants was
14 13.3 percent as of 2010; and

15 WHEREAS, the Travel and Tourism Advisory Board, a newly
16 created industry group appointed by the U.S. Secretary of
17 Commerce, recommended measures that can be taken to increase
18 travel to the U.S. from China, which include: (1) raising the
19 visa refusal rate from three to 10 percent; (2) establishing a
20 maximum wait time for in-person visa interviews of five days;
21 (3) adding four to six visa processing locations and several

1 hundred consulate officers to process visas; and (4) allowing
2 non-immigrant visas to last 10 years for Chinese visitors, which
3 is permitted in other countries; now, therefore

4 BE IT RESOLVED by the House of Representatives/Senate of
5 the Twenty-seventh Legislature of the State of Hawaii, Regular
6 Session of 2013, the Senate/House concurring, that it urges the
7 United States Department of State, the Department of Homeland
8 Security, and the United States Attorney General to include the
9 People's Republic of China in the Visa Waiver Program and
10 support the recommendations of the Travel and Tourism Advisory
11 Board to ease visa restrictions and the visa application and
12 approval process for business and tourist travelers from the
13 People's Republic of China; and

1 BE IT FINALLY RESOLVED that copies of this Resolution be
2 transmitted to the Honorable Hillary Clinton, Secretary of the
3 U.S. Department of State; Secretary Janet Napolitano, Secretary
4 of the Department of Homeland Security; U.S. Attorney General
5 Eric H. Holder Jr.; Secretary Rebecca Blank, Acting Secretary,
6 U.S. Department of Commerce; China's Ambassador to the United
7 States, 2201 Wisconsin Avenue, N.W., Suite 110, Washington, D.C.
8 20007; the members of Hawaii's Congressional delegation; the
9 Hawaii Tourism Authority; the Director of the Hawaii State
10 Department of Business, Economic Development and Tourism; the
11 Asian American Institute, 4753 North Broadway, Suite 904,
12 Chicago, Illinois 60640; the Organization of Chinese Americans,
13 1322 18th Street, NW, Washington, D.C. 20036-1803; and the
14 President of the Hawaii State Association of Counties and the
15 Mayors of the counties of Kauai, Hawaii, Honolulu, and Maui.
16

OFFERED BY: _____

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-182

Introduced: 07/18/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL THAT URGES THE UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF HOMELAND SECURITY, AND THE UNITED STATES ATTORNEY GENERAL TO EASE VISA RESTRICTIONS FOR THE PEOPLE'S REPUBLIC OF CHINA.

Links: [RES12-182](#)
[CR-249](#)

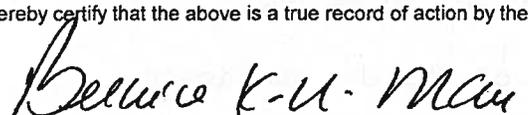
Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

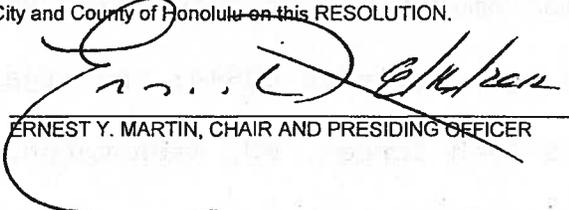
EXECUTIVE MATTERS AND LEGAL AFFAIRS 07/24/12 CR-249 -- RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.

COUNCIL 08/15/12 CR-249 AND RESOLUTION 12-182 WERE ADOPTED.

ANDERSON	A	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



RESOLUTION

RELATING TO THE INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL URGING THE GOVERNOR AND THE STATE LEGISLATURE TO MAINTAIN THE COUNTIES' SHARE OF THE TRANSIENT ACCOMMODATIONS TAX.

WHEREAS, the transient accommodations tax is a tax levied by the state on the proceeds derived from furnishing transient accommodations; and

WHEREAS, in the 1990 legislative session, the Hawaii state legislature enacted Act 185 which gave the counties a share of the transient accommodations tax; and

WHEREAS, according to Conference Committee Report 207, the purpose of Act 185 was to provide a more equitable method of sharing state revenues with the counties rather than continuing with the system existing at the time whereby the counties requested financial assistance through grants in aid from the state on a case by case basis; and

WHEREAS, in Conference Committee Report 207, it was acknowledged that many of the burdens imposed by tourism fall on the counties including the costs of providing police and fire protection, maintaining county parks, beaches, water systems, roads, sewer systems and other tourism related infrastructure; and

WHEREAS, the county share of the tax also provides more stability to county finances and enables improved budgeting and planning; and

WHEREAS, 44.8% of the total transient accommodations tax collected by the state is distributed to the counties, is limited to a total of \$93 million to the counties per fiscal year, and is allocated as follows:

Kauai County	-	14.5%
Hawaii County	-	18.6%
City and County of Honolulu	-	44.1%
Maui County	-	22.8%

and

WHEREAS, the transient accommodations tax revenues account for a significant portion of the counties' general fund budgets; and



RESOLUTION

WHEREAS, the state legislature has previously considered suspending the counties' allocation of the transient accommodations tax to balance the state budget and may again consider doing so for the 2014 fiscal year; and

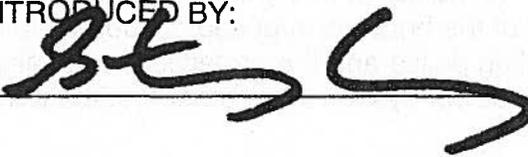
WHEREAS, maintaining the current allocation of the transient accommodations tax would allow the counties to continue providing essential government services to visitors and residents without significantly raising property taxes; and

WHEREAS, approval by all the counties is requested to include a proposal in the 2013 HSAC legislative package; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approve for inclusion in the 2013 HSAC legislative package various resolutions, attached as Exhibit A, urging the governor and state legislature to maintain the counties' share of the transient accommodations tax; and

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the President of the Hawaii State Association of Counties.

INTRODUCED BY:



DATE OF INTRODUCTION:

JUL 18 2012

Honolulu, Hawaii

Councilmembers

RECEIVED
CITY & COUNTY OF HONOLULU
JUL 18 2012

H.R. NO. _____

HOUSE RESOLUTION

URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII
TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT
ACCOMMODATIONS TAX.

1 WHEREAS, the transient accommodations tax is a tax levied
2 by the state on the proceeds derived from furnishing transient
3 accommodations; and
4

5 WHEREAS, in the 1990 legislative session, the Hawaii state
6 legislature enacted Act 185 which gave the counties a share of
7 the transient accommodations tax; and
8

9 WHEREAS, according to Conference Committee Report 207, the
10 purpose of Act 185 was to provide a more equitable method of
11 sharing state revenues with the counties rather than continuing
12 with the system existing at the time whereby the counties
13 requested financial assistance through grants in aid from the
14 state; and
15

16 WHEREAS, the county share of the tax also provides more
17 stability to county finances and enables improved budgeting and
18 planning; and
19

20 WHEREAS, currently, 44.8% of the total transient
21 accommodations tax collected by the state is distributed to the
22 counties; of this amount, the revenue is allocated as follows:
23

24	Kauai County	-	14.5%
25	Hawaii County	-	18.6%
26	City and County of Honolulu	-	44.1%
27	Maui County	-	<u>22.8%</u>
28			100.0%

29
30 and
31

1 WHEREAS, the transient accommodations tax revenues account
2 for a significant portion of the counties' general fund budgets;
3 and
4

5 WHEREAS, maintaining the current allocation of the
6 transient accommodations tax would allow the counties to
7 continue providing essential government services to visitors and
8 residents; and
9

10 WHEREAS, losing the current allocation of the transient
11 accommodations tax would require counties to significantly raise
12 property taxes; now, therefore,
13

14 BE IT RESOLVED by the Senate of the Twenty-eighth
15 Legislature of the State of Hawaii, Regular Session 2013, that
16 the Governor and the Legislature are urged to preserve the
17 counties' share of the transient accommodations tax; and
18

19 BE IT FURTHER RESOLVED that certified copies of this
20 Resolution be transmitted to the Governor, the Speaker of the
21 House, the President of the Hawaii State Association of
22 Counties, and the Mayors of the counties of Kauai, Hawaii,
23 Honolulu, and Maui.
24
25
26

OFFERED BY: _____

SENATE RESOLUTION

URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII
TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT
ACCOMMODATIONS TAX.

1 WHEREAS, the transient accommodations tax is a tax levied
2 by the state on the proceeds derived from furnishing transient
3 accommodations; and
4

5 WHEREAS, in the 1990 legislative session, the Hawaii state
6 legislature enacted Act 185 which gave the counties a share of
7 the transient accommodations tax; and
8

9 WHEREAS, according to Conference Committee Report 207, the
10 purpose of Act 185 was to provide a more equitable method of
11 sharing state revenues with the counties rather than continuing
12 with the system existing at the time whereby the counties
13 requested financial assistance through grants in aid from the
14 state; and
15

16 WHEREAS, the county share of the tax also provides more
17 stability to county finances and enables improved budgeting and
18 planning; and
19

20 WHEREAS, currently, 44.8% of the total transient
21 accommodations tax collected by the state is distributed to the
22 counties; of this amount, the revenue is allocated as follows:
23

24	Kauai County	-	14.5%
25	Hawaii County	-	18.6%
26	City and County of Honolulu	-	44.1%
27	Maui County	-	<u>22.8%</u>
28			100.0%

29
30 and
31

1 WHEREAS, the transient accommodations tax revenues account
2 for a significant portion of the counties' general fund budgets;
3 and
4

5 WHEREAS, maintaining the current allocation of the
6 transient accommodations tax would allow the counties to
7 continue providing essential government services to visitors and
8 residents; and
9

10 WHEREAS, losing the current allocation of the transient
11 accommodations tax would require counties to significantly raise
12 property taxes; now, therefore,
13

14 BE IT RESOLVED by the Senate of the Twenty-eighth
15 Legislature of the State of Hawaii, Regular Session 2013, that
16 the Governor and the Legislature are urged to preserve the
17 counties' share of the transient accommodations tax; and
18

19 BE IT FURTHER RESOLVED that certified copies of this
20 Resolution be transmitted to the Governor, the Speaker of the
21 House, the President of the Hawaii State Association of
22 Counties, and the Mayors of the counties of Kauai, Hawaii,
23 Honolulu, and Maui.
24
25
26

OFFERED BY: _____

1 WHEREAS, the transient accommodations tax revenues account
2 for a significant portion of the counties' general fund budgets;
3 and
4

5 WHEREAS, maintaining the current allocation of the
6 transient accommodations tax would allow the counties to
7 continue providing essential government services to visitors and
8 residents; and
9

10 WHEREAS, losing the current allocation of the transient
11 accommodations tax would require counties to significantly raise
12 property taxes; now, therefore,
13

14 BE IT RESOLVED by the House of Representatives of the
15 Twenty-eighth Legislature of the State of Hawaii, Regular
16 Session of 2013, the Senate concurring, that the Governor and
17 the Legislature of the State of Hawaii are urged to preserve the
18 counties' share of the transient accommodations tax; and
19

20 BE IT FURTHER RESOLVED that certified copies of this
21 Concurrent Resolution be transmitted to the Governor, the
22 President of the Hawaii State Association of Counties, and the
23 Mayors of the counties of Kauai, Hawaii, Honolulu, and Maui.
24
25
26

OFFERED BY: _____

SENATE CONCURRENT
RESOLUTION

URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII
TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT
ACCOMMODATIONS TAX.

1 WHEREAS, the transient accommodations tax is a tax levied
2 by the state on the proceeds derived from furnishing transient
3 accommodations; and
4

5 WHEREAS, in the 1990 legislative session, the Hawaii state
6 legislature enacted Act 185 which gave the counties a share of
7 the transient accommodations tax; and
8

9 WHEREAS, according to Conference Committee Report 207, the
10 purpose of Act 185 was to provide a more equitable method of
11 sharing state revenues with the counties rather than continuing
12 with the system existing at the time whereby the counties
13 requested financial assistance through grants in aid from the
14 state; and
15

16 WHEREAS, the county share of the tax also provides more
17 stability to county finances and enables improved budgeting and
18 planning; and
19

20 WHEREAS, currently, 44.8% of the total transient
21 accommodations tax collected by the state is distributed to the
22 counties; of this amount, the revenue is allocated as follows:
23

24	Kauai County	-	14.5%
25	Hawaii County	-	18.6%
26	City and County of Honolulu	-	44.1%
27	Maui County	-	<u>22.8%</u>
28			100.0%

29
30 and
31

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-183

Introduced: 07/18/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION RELATING TO THE INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL URGING THE GOVERNOR AND THE STATE LEGISLATURE TO MAINTAIN THE COUNTIES' SHARE OF THE TRANSIENT ACCOMMODATIONS TAX.

Links: [RES12-183](#)
[CR-250](#)

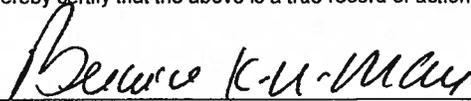
Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

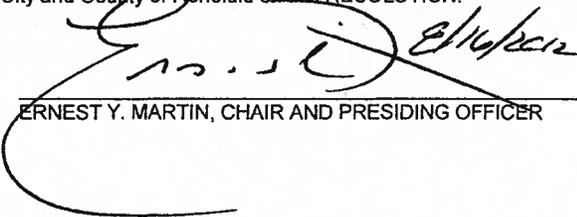
EXECUTIVE 07/24/12 CR-250 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.
MATTERS AND
LEGAL AFFAIRS

COUNCIL 08/15/12 CR-250 AND RESOLUTION 12-183 WERE ADOPTED.

ANDERSON	A	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



RESOLUTION

RELATING TO THE INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND BOARD OF TRUSTEES.

WHEREAS, despite the fact that the counties contribute a substantial amount to the Hawaii employer-union health benefits trust fund (EUTF) and the health and well-being of their employees and retirees depend on the benefit decisions made by the board of trustees, the counties have no representation on the EUTF board; and

WHEREAS, of the total EUTF board membership, there are five employer trustees on the board who are state administration representatives; and

WHEREAS, the Council believes that the counties need to have at least one member on the EUTF board to provide fiscal expertise and knowledge of county finances and the county workplace; and

WHEREAS, previously the legislature has considered but not approved legislation requiring that one of the five seats on the board allocated to public employers be occupied by a member appointed by the mayors of all four counties and approved by the Hawaii State Association of Counties, was introduced; and

WHEREAS, approval of all counties is required to include a proposal in the 2013 HSAC legislative package; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approve for inclusion in the 2013 HSAC legislative package a proposal, attached as Exhibit A, which requires that one of the seats on the EUTF board be appointed by the mayors of all four counties and approved by HSAC; and



RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the President of HSAC.

INTRODUCED BY:

Stanley Chang

DATE OF INTRODUCTION:

July 18, 2012

Honolulu, Hawaii

_____ Councilmembers

B. NO.

A BILL FOR AN ACT

RELATIVE TO THE REGULATION OF THE BUSINESS OF REAL ESTATE BROKERS AND SALES PERSONS

ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF NEW YORK

Exhibit A

SECTION 1. The purpose of this act is to provide for the regulation of the business of real estate brokers and sales persons.

SECTION 2. The definitions in this section shall apply to this act.

SECTION 3. The terms used in this act shall have the following meanings:

SECTION 4. The term "real estate" shall mean any interest in land, including but not limited to:

SECTION 5. The term "broker" shall mean any person who, for compensation, is engaged in the business of:

SECTION 6. The term "sales person" shall mean any person who, for compensation, is engaged in the business of:

SECTION 7. The term "license" shall mean a license issued by the real estate board to a broker or sales person.

SECTION 8. The real estate board shall be composed of:

SECTION 9. The board shall have the honor and power to:

SECTION 10. The board shall have the honor and power to:

SECTION 11. The board shall have the honor and power to:

SECTION 12. The board shall have the honor and power to:

SECTION 13. The board shall have the honor and power to:

SECTION 14. The board shall have the honor and power to:

SECTION 15. The board shall have the honor and power to:

____.B. NO. _____

A BILL FOR AN ACT

RELATING TO HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
BOARD OF TRUSTEES.

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

1 SECTION 1. The legislature finds that the counties need
2 representation on the board of trustees of the Hawaii employer-
3 union health benefits trust fund. The counties contribute a
4 substantial amount to the fund, and the health and well-being of
5 their employees and retirees depend on the benefit decisions
6 made by the board of trustees. Despite their lack of
7 representation as public employers the counties are affected by
8 board decisions.

9 The purpose of this Act is to require that one of the five
10 seats on the board allocated to public employers be occupied by
11 a member appointed by the mayors of all four counties and
12 approved by the Hawaii State Association of Counties.

13 SECTION 2. Section 87A-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§87A-5 Composition of board.

SUMMARY OF PROPOSED COMMITTEE DRAFT:

Resolution 12-184 –

**RELATING TO THE INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF
COUNTIES LEGISLATIVE PACKAGE A PROPOSAL RELATING TO THE
EMPLOYER-UNION HEALTH BENEFITS TRUST FUND BOARD OF TRUSTEES**

PROPOSED CD1:

Corrects a typographical error on page 2, line 2, of "Exhibit A."

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-184, CD1

Introduced: 07/18/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION RELATING TO THE INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A PROPOSAL RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS
TRUST FUND BOARD OF TRUSTEES.

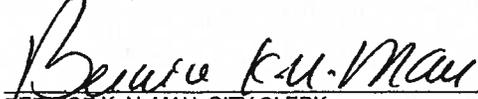
Links: [RES12-184](#)
[RES12-184, CD1](#)
[CR-251](#)

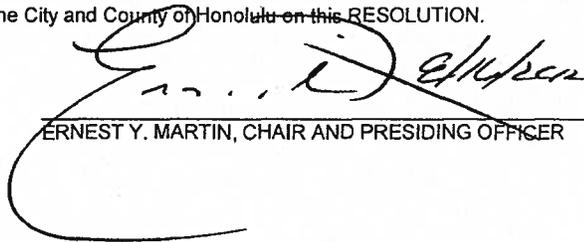
Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

EXECUTIVE MATTERS AND LEGAL AFFAIRS	07/24/12	CR-251 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION AS AMENDED IN <u>CD1</u> FORM.
-------------------------------------------	----------	----------------------------------------------------------------------------------------------

COUNCIL	08/15/12	CR-251 AND RESOLUTION 12-184, CD1 WERE ADOPTED.		
ANDERSON A	BERG Y	CACHOLA Y	CHANG Y	GABBARD Y
GARCIA Y	HARIMOTO Y	KOBAYASHI Y	MARTIN Y	

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



RESOLUTION

APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES ("HSAC") LEGISLATIVE PACKAGE A PROPOSAL THAT PROVIDES THE COUNTIES WITH REPRESENTATION ON THE BOARD OF TRUSTEES OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE.

WHEREAS, the counties of Honolulu, Kauai, Maui and Hawaii ("counties") contribute a considerable share to the employees' retirement system of the State and their employees and retirees are a significant portion of the system's membership; and

WHEREAS, currently, the counties do not have any representation on the board of trustees of the employees' retirement system of the State; and

WHEREAS, lack of representation may result in a situation where board members do not fully consider the costs of the actions on the counties, resulting in changes that may not be cost beneficial in the aggregate or may affect the income of county employees and retirees; and

WHEREAS, county representation will ensure that the board possess expertise about county finances and the county workforce in making benefit decisions; and

WHEREAS, it is in the best interest of the counties to have representation on the board of trustees of the employees' retirement system of the State; and

WHEREAS, the unanimous approval of the county councils is necessary for inclusion of a proposal in the HSAC legislative package; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approve for inclusion in the 2013 HSAC legislative package a proposal, attached as Exhibit A, that would provide county representation on the board of trustees of the employees' retirement system of the State; and



RESOLUTION

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the President of the Hawaii State Association of Counties and the Mayors of the counties of Kauai, Hawaii, Honolulu and Maui.

INTRODUCED BY:

[Handwritten Signature]

DATE OF INTRODUCTION:

JUL 18 2012

Honolulu, Hawaii

Councilmembers

C & C OF HONOLULU
CITY CLERK
RECEIVED
2012 JUL 18 PM 3:23

B. NO.

A BILL FOR AN ACT

EXHIBIT A

____.B. NO.____

A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1 SECTION 1. The legislature finds that the counties need
2 county representation on the board of trustees of the employees'
3 retirement system of the State. The counties contribute a
4 considerable share to retirement system costs, and their
5 employees and retirees are a significant portion of the system's
6 membership. County representation will ensure that the board
7 possesses expertise about county finances and the county
8 workforce in making benefit decisions. Lack of representation
9 may result in a situation where board members do not fully
10 consider the costs of their actions on the counties, resulting
11 in changes that may not be cost beneficial in the aggregate or
12 may affect the retirement income of county employees and
13 retirees.

14 The purpose of this Act is to include county representation
15 on the membership of the board of trustees of the employees'
16 retirement system.

1 SECTION 2. Section 88-24, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§88-24 **Composition of board.** The board of trustees shall
4 consist of [~~eight~~] ten members as follows:

5 (1) The director of finance of the State, ex officio;

6 (2) [~~Four~~] Five members of the system, [~~two~~] three of whom

7 shall be general employees, one of whom shall be a

8 teacher, and one of whom shall be a retirant to be

9 elected by the members and retirants of the system

10 under rules adopted by the board governing the

11 election to serve for terms of six years each, one of

12 the terms to expire on January 1 of each even-numbered

13 year; provided that, if after the close of filing of

14 petitions for candidacy, a member is unopposed for

15 election to a trustee position, the member shall be

16 deemed and declared to be duly and legally elected to

17 the position of trustee without an election; and

18 (3) Three citizens of the State who are not employees, two

19 of whom have at least three years of experience

20 providing financial services, including investments,

21 to public, corporate, or private institutional

22 clients, to be appointed by the governor, with the

1 advice and consent of the senate, to serve for a term
2 of six years each, one of the terms to expire
3 January 1 of each odd-numbered year[-]; and

4 (4) One member appointed by unanimous agreement of the
5 mayors of each of the four counties and approved by
6 the Hawaii State Association of Counties, subject to
7 the advice and consent of the senate in the same
8 manner as trustees appointed by the governor, to serve
9 for a term of six years, with each term to expire on
10 January 1 of an odd-numbered year. The counties shall
11 be responsible for all necessary expenses, including
12 travel, board, and lodging expenses, and any other
13 costs, incurred in the performance of the member's
14 duties.

15 Each trustee shall serve until the trustee's successor is
16 elected or appointed, as the case may be, and qualified. For
17 the purpose of this section, the term "general employees"
18 includes police officers and firefighters."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

____.B. NO. _____

1 SECTION 4. This Act shall take effect on July 1, 2030.

2

3 INTRODUCED BY: _____

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-186

Introduced: 07/18/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES ("HSAC") LEGISLATIVE PACKAGE A PROPOSAL THAT PROVIDES THE COUNTIES WITH REPRESENTATION ON THE BOARD OF TRUSTEES OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE.

Links: [RES12-186](#)
[CR-252](#)

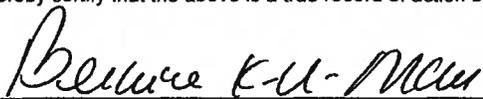
Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

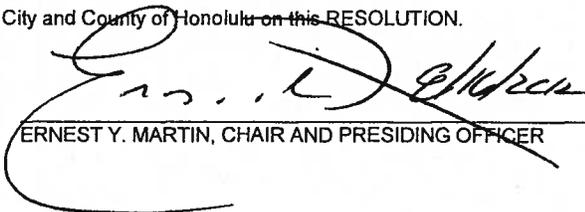
EXECUTIVE 07/24/12 CR-252 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.
MATTERS AND
LEGAL AFFAIRS

COUNCIL 08/15/12 CR-252 AND RESOLUTION 12-186 WERE ADOPTED.

ANDERSON	A	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



RESOLUTION

APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL RELATING TO ELECTRONIC WASTE RECYCLING.

WHEREAS, in the United States, electronic waste is rapidly becoming the fastest growing segment of the municipal solid waste stream; and

WHEREAS, common examples of electronic waste include televisions, radios, disc and tape recorders and players, audio/visual equipment, computer-related devices, personal digital assistants, cellular telephones, telephone systems, answering machines, computer games, electronic toys, camcorders, and digital cameras; and

WHEREAS, the City anticipates the amount of electronic items being discarded to increase as technology advances and becomes more prevalent in the workplace and at home; and

WHEREAS, electronic waste is a particular concern with regard to public health and safety because such waste frequently contains toxic materials, such as lead in the circuit board soldering or in the cathode ray tube; and

WHEREAS, legislation is needed to reduce electronic waste and increase the recycling of electronic devices; and

WHEREAS, the unanimous approval of the county councils is necessary for inclusion of a proposal in the Hawaii State Association of Counties ("HSAC") legislative package; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approves for inclusion in the 2013 HSAC legislative package a proposal, attached as Exhibit A, that would strengthen the laws relating to electronic waste recycling; and



RESOLUTION

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the President of the Hawaii State Association of Counties and the Mayors of the counties of Kauai, Hawaii, Honolulu and Maui.

INTRODUCED BY:

[Handwritten Signature]

C & C OF HONOLULU
CITY CLERK
RECEIVED
JUL 18 18 PM 1:42

DATE OF INTRODUCTION:

JUL 18 2012

Honolulu, Hawaii

Councilmembers

B. NO.

A BILL FOR AN ACT

Exhibit A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

____.B. NO.____

A BILL FOR AN ACT

RELATING TO ELECTRONIC WASTE RECYCLING.

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

SECTION 1. Chapter 339D, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

"§339D-A Annual reporting; determination of market share.

(a) Each electronic device manufacturer shall report annually to the department its sales, by weight, of the manufacturer's covered electronic devices in the State, categorized by type, to the extent known. If the electronic device manufacturer is unable to provide accurate sales data, it shall explain why the data cannot be provided and estimate its sales data using a method established by the department by rule.

b) The department shall determine annually an electronic device manufacturer's market share. An electronic device

1 manufacturer's market share shall be the percentage of the
2 weight of all covered electronic devices sold in the State
3 comprised of covered electronic devices sold by the electronic
4 device manufacturer.

5 (c) The department shall use the best available
6 information to establish the weight of all electronic devices
7 sold in the State, including but not limited to the reports
8 submitted pursuant to subsection (a), state and national sales
9 data, and other reliable commercially available, supplemental
10 sources of information.

11 (d) Beginning March 15, 2014, and each year thereafter,
12 the department shall notify each electronic device manufacturer
13 of its recycling responsibility under section 339D-4, based on
14 the department's determination of its market share.

15 **§339D-B Liability for stored information.**

16 An electronic device manufacturer shall not be liable for
17 any loss or misuse of electronic data or other information that
18 a consumer may have stored on a covered electronic device that
19 is recovered or recycled by the electronic device manufacturer.

20 **§339D-C Environmental management.**

21 (a) All covered electronic devices shall be recycled
22 pursuant to this chapter, in a manner that complies with
23 applicable federal, state, and county laws and requirements.

1 (b) The department shall adopt rules, pursuant to chapter
2 91, that include the Institute of Scrap Recycling Industries,
3 Inc.'s Electronics Recycling Operating Practices as requirements
4 for recycling covered electronic devices.

5 §339D-D State procurement.

6 Any state or county agency that purchases or leases any
7 covered electronic device shall require each prospective offeror
8 to certify compliance with this chapter. Failure to provide
9 certification shall disqualify the prospective offeror."

10 SECTION 2. Section 339D-1, Hawaii Revised Statutes, is
11 amended as follows:

12 By amending the definitions of "brand", "covered electronic
13 device", "covered entity", "covered television", "recycling",
14 and "retailer" to read:

15 1. "'Brand" means a symbol, word, or mark that identifies
16 a covered electronic device [~~or a covered television~~], rather
17 than any of its components.

18 "Covered electronic device":

19 (1) Means [a]:

20 (A) A computer, computer printer, computer
21 monitor, or portable computer with a screen
22 size greater than four inches measured
23 diagonally; [~~and~~] or

1 (B) A television with a screen size of nine
2 inches or larger as measured diagonally;
3 and

5 (2) Shall not include:

6 (A) A covered electronic device that is a part
7 of a motor vehicle or any component part of
8 a motor vehicle assembled by or for a motor
9 vehicle manufacturer or franchised dealer,
10 including replacement parts for use in a
11 motor vehicle;

12 (B) A covered electronic device that is
13 functionally or physically required as a
14 part of a larger piece of equipment designed
15 and intended for use in an industrial,
16 commercial, or medical setting, including
17 diagnostic, monitoring, or control
18 equipment;

19 (C) A covered electronic device that is
20 contained within a clothes washer, clothes
21 dryer, refrigerator, refrigerator and
22 freezer, microwave oven, conventional oven

1 or range, dishwasher, room air conditioner,
2 dehumidifier, or air purifier; or

3 (D) A telephone of any type."

4 "Covered entity" means any [~~household,~~] person, government
5 entity, business, or nonprofit organization exempt from taxation
6 under section 501(c)(3) of the Internal Revenue Code, regardless
7 of size or place of operation within the State.

8 [~~"Covered television" :~~

9 ~~(1) Means]~~ "Television" means any device that is
10 capable of receiving broadcast, cable, or
11 satellite signals and displaying television or
12 video programming, including without limitation
13 any direct view or projection television [~~with a~~
14 ~~viewable screen of nine inches or larger]~~ with
15 display technology based on cathode ray tube,
16 plasma, liquid crystal, digital light processing,
17 liquid crystal on silicon, silicon crystal
18 reflective display, light emitting diode, or
19 similar technology marketed and intended for use
20 by a [~~household,~~] person;

21 [~~(2) Shall not include:~~

22 ~~(A) A computer, computer printer, computer~~
23 ~~monitor, or portable computer;~~

1 ~~(B) A television that is a part of a motor~~
2 ~~vehicle or any component part of a motor~~
3 ~~vehicle assembled by or for a vehicle~~
4 ~~manufacturer or franchised dealer, including~~
5 ~~replacement parts for use in a motor~~
6 ~~vehicle;~~

7 ~~(C) A television that is functionally or~~
8 ~~physically required as a part of a larger~~
9 ~~piece of equipment designed and intended for~~
10 ~~use in an industrial, commercial, or medical~~
11 ~~setting, including diagnostic, monitoring,~~
12 ~~or control equipment;~~

13 ~~(D) A telephone of any type, including a mobile~~
14 ~~telephone;] or~~

15 ~~(E) A global positioning system.]~~

16 "Recycling" means processing (including disassembling,
17 dismantling, or shredding) covered electronic devices [~~or~~
18 ~~covered televisions]~~ or their components to recover a useable
19 product; provided that "recycling" does not include any process
20 defined as incineration under applicable laws and rules."

21 "Retailer" means any person who offers covered electronic
22 devices [~~or covered televisions]~~ for sale, other than for resale

1 by the purchaser, through any means, including sales outlets,
2 catalogs, or the Internet."

3 2. By deleting the definitions of "household", "market
4 share", and "television manufacturer".

5 ~~["Household" means any occupant of a single detached
6 dwelling unit or of a single unit of a multiple dwelling unit
7 who has used a covered electronic device or covered television
8 at a dwelling unit primarily for personal or home business use.~~

9 ~~"Market share":~~

10 ~~(1) Means the calculation of a television
11 manufacturer's prior year's sales of televisions
12 divided by all manufacturers' prior year's sales
13 for all televisions, as determined by the
14 department;~~

15 ~~(2) May be expressed as a percentage, a fraction, or
16 a decimal fraction.~~

17 ~~"Television manufacturer" means a person who:~~

18 ~~(1) Manufactures for sale in the State a covered
19 television under a brand that it licenses or
20 owns;~~

21 ~~(2) Manufactures for sale in the State covered
22 televisions without affixing a brand;~~

1 ~~(3) Resells into the State a covered television~~
2 ~~manufactured by others under a brand that the~~
3 ~~seller owns or is licensed to use;~~

4 ~~(4) Imports into the United States or exports from~~
5 ~~the United States a covered television for sale~~
6 ~~in the State;~~

7 ~~(5) Sells at retail a covered television acquired~~
8 ~~from an importer described in paragraph (4), and~~
9 ~~elects to register as the manufacturer for those~~
10 ~~products;~~

11 ~~(6) Manufactures covered televisions and supplies~~
12 ~~them to any person or persons within a~~
13 ~~distribution network that includes wholesalers or~~
14 ~~retailers in this State; or~~

15 ~~(7) Assumes the responsibilities and obligations of a~~
16 ~~television manufacturer under this chapter.~~

17 ~~In the event the television manufacturer is one who~~
18 ~~manufactures, sells, or resells covered televisions under a~~
19 ~~brand for which it has obtained the license, then the licensor~~
20 ~~or brand owner of the brand shall not be included in the~~
21 ~~definition of television manufacturer under paragraph (1) or~~
22 ~~(3)."]~~

1 SECTION 3. Section 339D-4, Hawaii Revised Statutes, is
2 amended by amending subsections (c) and (d) to read as follows:

3 "(c) By June 1, 2009, and annually thereafter, each
4 electronic device manufacturer shall submit a plan to the
5 department to establish, conduct, and manage a program for the
6 collection, transportation, and recycling of its covered
7 electronic devices sold in the State, which shall be subject to
8 the following conditions:

9 ~~(1) The plan shall not permit the charging of a fee~~
10 ~~at the point of recycling if the covered~~
11 ~~electronic device is brought by the covered~~
12 ~~electronic device owner to a central location for~~
13 ~~recycling; provided that the plan may include a~~
14 ~~reasonable transportation fee if the electronic~~
15 ~~device manufacturer or electronic device~~
16 ~~manufacturer's agent removes the covered~~
17 ~~electronic device from the owner's premises at~~
18 ~~the owner's request and if the removal is not in~~
19 ~~conjunction with delivery of a new electronic~~
20 ~~device to the owner; and]~~

21 (1) The plan shall include a description of the
22 methods for the convenient collection of covered
23 electronic devices at no cost to the covered

1 entities. The recycling plan shall provide
2 collection services of covered electronic devices
3 in each county of the state. In addition, for
4 United States Postal Zip Code areas with a
5 population greater than twenty-five thousand, the
6 plan shall provide at least one of the following
7 services:

8 (A) A staffed drop-off site;

9 (B) Alternative collection service such as on-
10 site pick-up service; or

11 (C) Collection events which are periodically
12 held at an easily accessible, central
13 location;

14 (2) Each electronic device manufacturer may develop
15 its own recycling program or may collaborate with
16 other electronic device manufacturers, so long as
17 the program is implemented and fully operational
18 no later than January 1, 2010[-];

19 (3) Each electronic device manufacturer's plan shall
20 provide for recycling covered electronic devices
21 of an amount equal in weight to its market share
22 of covered electronic devices sold in the State

1 each year as determined pursuant to section 339D-

2 A; and

3 (4) Plans that contain only a mail-back option shall
4 not be allowed.

5 (d) By March 31, 2011, and annually thereafter, each
6 electronic device manufacturer shall submit a report to the
7 department of the total weight of all covered electronic devices
8 recycled in the previous year, which may include both an
9 electronic device manufacturer's own covered electronic devices
10 and those of other manufacturers."

11 SECTION 4. Section 339D-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~§~~339D-6~~]~~ **Department responsibility.**

14 (a) Beginning January 1, 2010, the department shall
15 maintain and update a website and a toll-free number with
16 current information on where covered entities can return covered
17 electronic devices for recycling.

18 (b) The department, in consultation with electronic device
19 manufacturers, shall develop an electronic device recycling
20 education program for consumers."

21 SECTION 5. Section 339D-7.5, Hawaii Revised Statutes, is
22 amended to read as follows:

1 "[~~+~~]**§339D-7.5**[~~+~~] **Manufacturer and agent responsibilities;**
2 **regulatory compliance.**

3 Each electronic device manufacturer [~~and television-~~
4 ~~manufacturer~~] shall be responsible for ensuring that the
5 electronic device manufacturer and its agents follow all
6 federal, state, and local regulations when collecting,
7 transporting, and recycling covered electronic devices [~~or-~~
8 ~~covered televisions~~], and adopt environmentally sound recycling
9 practices for the covered electronic devices [~~or covered-~~
10 ~~televisions~~]."

11 SECTION 6. Section 339D-8, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **§339D-8 Enforcement.**

14 (a) The department may conduct audits and inspections to
15 determine compliance under this chapter. Except as provided in
16 subsection (c), the department and the attorney general shall be
17 empowered to enforce this chapter and take necessary action
18 against any electronic device [~~or television manufacturer~~] or
19 retailer for failure to comply with this chapter or rules
20 adopted thereunder.

21 (b) The attorney general may file suit in the name of the
22 State to enjoin an activity related to the sale of covered

1 electronic devices [~~or covered televisions~~] in violation of this
2 chapter.

3 (c) The department shall issue a warning notice to a
4 person for the person's first violation of this chapter. The
5 person shall comply with this chapter within sixty days of the
6 date the warning notice was issued or be subject to the
7 penalties provided by law or rule, including[~~7~~] but not limited
8 to[~~7~~] penalties set forth in subsections (d) through (g). A
9 retailer that receives a warning notice from the department for
10 a violation of section 339D-3(a) [~~or 339D-24(a)~~] shall submit
11 proof to the department, within sixty days from the date the
12 warning notice was issued, that its inventory of covered
13 electronic devices [~~or covered televisions~~] offered for sale is
14 in compliance with this chapter.

15 (d) Any retailer who sells or offers for sale an unlabeled
16 covered electronic device [~~or unlabeled covered television~~] in
17 violation of section 339D-3 [~~or 339D-24, respectively,~~] or any
18 electronic device [~~or television~~] manufacturer that fails to
19 comply with any provision of section 339D-4 [~~or 339D-23,~~
20 ~~respectively,~~] may be assessed a penalty of up to \$10,000 for
21 the first violation and up to \$25,000 for the second and each
22 subsequent violation, in addition to any additional penalties
23 required or imposed pursuant to this chapter.

1 (e) Except as provided in subsection (d), any person who
2 violates any requirement of this chapter may be assessed a
3 penalty of up to \$1,000 for the first violation and up to \$2,000
4 for the second and each subsequent violation, in addition to any
5 additional penalties required or imposed pursuant to this
6 chapter.

7 (f) The department shall determine additional penalties
8 based on adverse impact to the environment, unfair competitive
9 advantage, and other considerations that the department deems
10 appropriate.

11 (g) If [~~a covered television~~] an electronic device
12 manufacturer fails to recycle its market share allocation, the
13 department shall impose a penalty of [~~50 cents~~] \$ _____ per
14 pound for each pound not recycled."

15 SECTION 7. Section 339D-9, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) Notwithstanding subsection (a), the department shall
18 not have the authority to assess any fees, including an advanced
19 recycling fee, registration fee, or other fee, on consumers [~~—~~
20 ~~television manufacturers, or retailers for recovery of covered~~
21 ~~televisions except those noted in sections [339D-4] and 339D-~~
22 22]."

1 SECTION 8. Section 339D-11, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 (b) The department shall compile the information submitted
4 by ~~[covered television]~~ electronic device manufacturers and
5 issue a report to the legislature no later than April 1, 2012,
6 and annually each year thereafter."

7 SECTION 9. Section 339D-12, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§339D-12 Federal preemption.**

10 ~~[(a) Part II of this]~~ This chapter shall be deemed
11 repealed if a federal law or a combination of federal laws takes
12 effect that establishes a national program for the collection
13 and recycling of covered electronic devices that substantially
14 meets the intent of ~~[part II of]~~ this chapter, including the
15 creation of a financing mechanism for collection,
16 transportation, and recycling of all covered electronic devices
17 from covered entities in the United States.

18 ~~[(b) [Part IV] of this chapter shall be deemed repealed if~~
19 ~~a federal law or a combination of federal laws takes effect that~~
20 ~~establishes a national program for the recycling of covered~~
21 ~~televisions that substantially meets the intent of [part IV] of~~
22 ~~this chapter.] "~~

1 SECTION 10. Chapter 339D, part IV, Hawaii Revised
2 Statutes, is repealed.

3 SECTION 11. No later than December 31, 2013, the
4 department of health shall adopt rules, pursuant to chapter 91,
5 that authorize the recovery and recycling of cathode ray tubes
6 in Hawaii to safely further the objectives of chapter 339D,
7 Hawaii Revised Statutes.

8 SECTION 12. In codifying the new sections added by section
9 1 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 13. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 14. This Act shall take effect upon its approval.

15

16 INTRODUCED BY: _____

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-187

Introduced: 07/18/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE A PROPOSAL RELATING TO ELECTRONIC WASTE RECYCLING.

Links: [RES12-187](#)
[CR-253](#)

Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

EXECUTIVE
MATTERS AND
LEGAL AFFAIRS

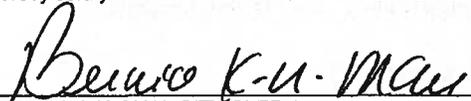
07/24/12 CR-253 -- RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.

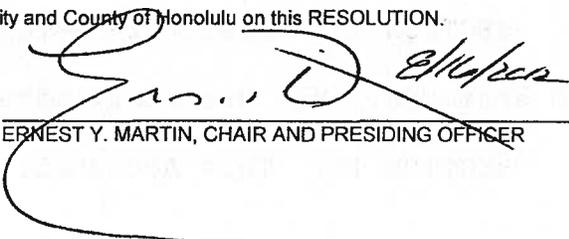
COUNCIL

08/15/12 CR-253 AND RESOLUTION 12-187 WERE ADOPTED.

ANDERSON	A	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



RESOLUTION

APPROVING NOMINEES TO THE BOARD OF DIRECTORS OF THE NATIONAL ASSOCIATION OF COUNTIES AND THE WESTERN INTERSTATE REGION.

WHEREAS, the Hawaii State Association of Counties (HSAC) is comprised of the members of the four County Councils of the State of Hawaii; and

WHEREAS, through their HSAC membership, all four County Councils are also members of the National Association of Counties (NACo), an organization comprised of 3,068 member counties across the nation; and

WHEREAS, all four County Councils are also members of the Western Interstate Region (WIR), a NACo caucus comprised of 15 member-states designated within the western region of the United States; and

WHEREAS, section 5A of the HSAC bylaws requires the two NACo directors nominated by HSAC also be nominated by each Council; and

WHEREAS, section 5A of the HSAC bylaws also states that HSAC may nominate the third NACo director appointed by the NACo President; and

WHEREAS, section 5C of the HSAC bylaws requires the two WIR directors nominated by HSAC to be approved by each Council; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approves the HSAC Executive Committee nominees to the NACo board of directors for FY 2013, as follows:

- | | |
|--------------------------------------|------------------------|
| Honolulu Councilmember Stanley Chang | Presidential Appointee |
| Kauai Councilmember KipuKai Kualii | Director |
| Maui Councilmember Joseph Pontanilla | Director |

and

BE IT FURTHER RESOLVED that the Council approves the HSAC Executive Committee nominees to the WIR board of directors for FY 2013, as follows:

- | | |
|--------------------------------------|----------|
| Kauai Councilmember Tim Bynum | Director |
| Hawaii Councilmember K. Angel Pilago | Director |

and



RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the President of the Hawaii State Association of Counties.

INTRODUCED BY:

BT

DATE OF INTRODUCTION:

JUL 19 2012

Honolulu, Hawaii

Councilmembers

11 3 AM 19 JUL 2012

RECEIVED
CITY CLERK
CITY OF HONOLULU

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-190

Introduced: 07/19/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

Title: RESOLUTION APPROVING NOMINEES TO THE BOARD OF DIRECTORS OF THE NATIONAL
ASSOCIATION OF COUNTIES AND THE WESTERN INTERSTATE REGION.

Links: RES12-190
CR-254

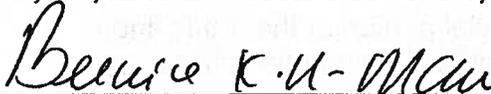
Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

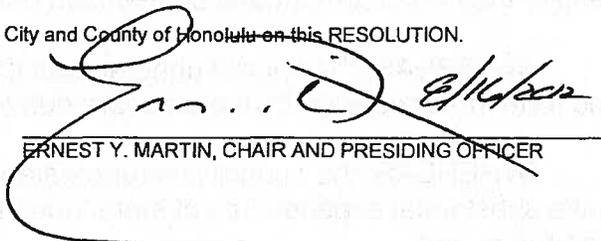
EXECUTIVE 07/24/12 CR-254 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.
MATTERS AND
LEGAL AFFAIRS

COUNCIL 08/15/12 CR-254 AND RESOLUTION 12-190 WERE ADOPTED.

ANDERSON	A	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER



RESOLUTION

RELATING TO THE INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL TRANSFERRING A PORTION OF THE FINES AND FORFEITURES FROM UNCONTESTED TRAFFIC INFRACTIONS TO THE COUNTIES.

WHEREAS, the counties are responsible for the enforcement of the Statewide Traffic Code (Chapter 291C, Hawaii Revised Statutes) and county traffic ordinances; and

WHEREAS, the cost to the counties of enforcing the state and county traffic laws and prosecuting violators is substantial and presently paid mainly from county general funds and highway funds; and

WHEREAS, all fines and forfeitures from the state and county traffic violations, however, are paid to the state and used as state general fund revenues; and

WHEREAS, none of the fines and forfeitures are transmitted to the counties despite their enforcement and prosecution efforts; and

WHEREAS, the council understands that a substantial portion of the traffic fines and forfeitures received by the state are derived from uncontested infractions; and

WHEREAS, the council also understands that the state judiciary does not have to make substantial expenditures of state funds to collect the uncontested fines and forfeitures; and

WHEREAS, transferring to the counties a portion of the uncontested traffic fines and forfeitures would be equitable and assist the counties in funding the cost of enforcing state and county traffic laws and prosecuting violators; and

WHEREAS, approval of all counties is required to include a proposal in the 2013 HSAC legislative package; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approve for inclusion in the 2013 HSAC legislative package a proposal, attached as Exhibit A, that would transfer a portion of the fines and forfeitures from uncontested traffic infractions to the counties; and



RESOLUTION

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the President of the Hawaii State Association of Counties.

INTRODUCED BY:

[Handwritten Signature]

DATE OF INTRODUCTION:

JUL 20 2012

Honolulu, Hawaii

Councilmembers

SEP 11 NA 05 JUL 2012
CITY OF HONOLULU
CLERK

187-51

CITY COUNCIL
CITY AND COUNTY OF DENVER
DENVER, COLORADO



RESOLUTION

THE CITY AND COUNTY OF DENVER DO HEREBY RESOLVE THAT THE CITY AND COUNTY SHALL...

PROPOSED BY

[Handwritten signature]

EXHIBIT A

TO THE CITY AND COUNTY OF DENVER

DATE OF ADOPTION

JAN 20 2018

APPROVED BY

APPROVED BY

____.B. NO. _____

1 § -2 Transmittal of fines and forfeitures. (a) The state
2 director of finance shall transmit to each county not more than
3 thirty days after the end of each fiscal quarter ___ per cent of
4 all the fines and forfeitures collected for uncontested traffic
5 infractions committed in that county which are in excess of
6 amounts required by the State to pay the administrative costs of
7 the traffic violations bureau.

8 (b) Subsection (a) shall not apply to:

9 (1) Fines and forfeitures for violations that occur on
10 state off-street parking facilities, parks, airports,
11 and harbors that are subject to enforcement by the
12 State; and

13 (2) Fines and forfeitures that are required by law to be
14 paid into a special, revolving, or trust fund.

15 No county shall be entitled to any portion of the fines and
16 forfeitures described in this subsection."

17 SECTION 2. Section 291C-171, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) All fines and forfeitures collected upon conviction or
20 upon the forfeiture of bail of any person charged with a
21 violation of any section or provision of the state traffic laws
22 and all assessments collected relating to the commission of

1 traffic infractions shall be paid to the state director of
2 finance [~~of the State~~].

3 The judiciary shall identify those uncontested traffic
4 infractions as defined in section -1. The disposition of fines
5 and forfeitures paid to the state director of finance shall be
6 subject to section -2."

7 SECTION 3. Statutory material to be deleted is bracketed
8 and stricken. New material is underscored.

9 SECTION 4. This Act shall take effect on July 1, 2013.

10 INTRODUCED BY: _____

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-191

Introduced: 07/20/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

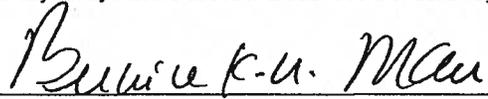
Title: RESOLUTION RELATING TO THE INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL TRANSFERRING A PORTION OF THE FINES AND FORFEITURES FROM UNCONTESTED TRAFFIC INFRACTIONS TO THE COUNTIES.

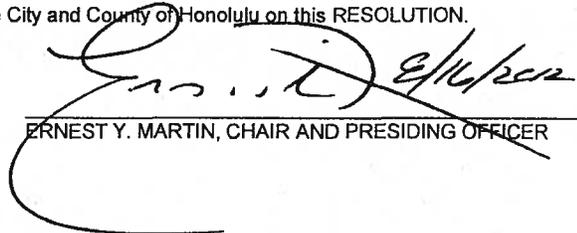
Links: [RES12-191](#)
[CR-255](#)

Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

EXECUTIVE MATTERS AND LEGAL AFFAIRS	07/24/12	CR-255 -- RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.							
COUNCIL	08/15/12	CR-255 AND RESOLUTION 12-191 WERE ADOPTED.							
ANDERSON	A	BERG	Y	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER

COUNTY COUNCIL

Jay Furfaro, Chair
JoAnn A. Yukimura, Vice Chair
Tim Bynum
Dickie Chang
KipuKai Kualii
Nadine K. Nakamura
Mel Rapozo



OFFICE OF THE COUNTY CLERK

Ricky Watanabe, County Clerk
Jade K. Fountain-Tanigawa, Deputy County Clerk

Telephone (808) 241-4188
Fax (808) 241-6349
Email cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

August 30, 2012

Honorable Mel Rapozo, HSAC President
and HSAC Executive Committee Members
4396 Rice Street, Suite 209
Lihu'e, HI 96766

Dear President Rapozo:

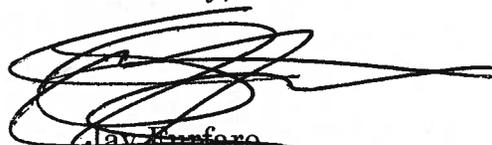
During the August 22, 2012 and August 29, 2012 Kaua'i County Council Meetings, the Kaua'i County Council approved the following proposals to be included in the 2013 Hawai'i State Association of Counties (HSAC) Legislative Package, and are attached hereto:

1. A BILL FOR AN ACT RELATING TO ENERGY RESOURCES
2. A BILL FOR AN ACT RELATING TO AFFORDABLE HOUSING CREDITS

On behalf of the Kaua'i County Council, we request your approval to include the proposals in the 2013 HSAC Legislative Package.

Your consideration and attention to this matter is greatly appreciated. Should you have any questions, please feel free to call the Office of the County Clerk, County of Kaua'i, at (808) 241-4188.

Sincerely,



Jay Furfaro
COUNCIL CHAIR

Attachments

AB:V:\MichalNakashima\jf 2010-2012\Letter to HSAC (Kauai Proposals) 2012-1276.docx.

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties (HSAC)

TITLE: Relating to Energy Resources

PURPOSE: To amend the State law (Act 204) that requires solar water heating on all new single-family and duplex homes. The amendment would require that the buyer-owner of a new single-family or duplex home be the applicant for the variance allowing on-demand gas in lieu of a solar water heater; otherwise, a solar water heater will be required. This is a consumer protection measure as well as an energy efficiency and conservation measure.

MEANS: Amend Section 196-6.5, Hawai'i Revised Statutes

JUSTIFICATION: Amendments are necessary to fulfill the intention of the Legislature, as expressed in Act 155, the Clean Energy Initiative, that variances to the requirement of a solar water heater would be "rarely" granted and that the "gas variance" would be considered only if requested by the buyer-owner of a new home who would be ultimately responsible for energy consumption costs. Where there is no buyer occupant at the time of building, the "gas variance" shall not be available. Other variances, however, will remain. For example, if a home is being built where there is little sun and the applicant can show that a solar water heater is not feasible, it will not be required.

___B. NO. ___

A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1 SECTION 1. Purpose and Findings. The legislature finds that
2 independence from fossil fuels is critical for the security and wellbeing of Hawaii's
3 residents and for the sustainability and vitality of Hawaii's economy. Rising oil
4 costs and increased dependence on foreign oil continue to place Hawaii's families
5 and businesses in a vulnerable position. Continued consumption of fossil fuel will
6 also worsen global warming, which in turn could mean increasing frequency and
7 intensity of storms and rising sea levels in Hawaii. This will cause significant and
8 costly impacts to our island communities as well as to the larger world.

9 The legislature finds that the installation of solar water heaters on new
10 single-family and duplex homes is one of the most cost-effective and efficient ways
11 of moving Hawaii's families off of fossil fuels. A conventional electric water tank
12 accounts for thirty to thirty-five percent of a household's electric bill. It is estimated
13 that by relying on the sun for ninety percent of its hot water demand, a family could
14 save enough money to pay for the solar system in three to five years. After the
15 system is paid off, the heating of water is essentially free. In addition to federal tax

1 credits, when the cost of a solar water heater is included in the cost of a mortgage
2 there could also be the added value of tax deductions.

3 For the reasons above, the legislature in 2008 passed Act 204 requiring solar
4 water heaters on new single-family homes. However the legislature finds that
5 Act 204 allows variances from this requirement under vague and unjustified
6 circumstances such that the purpose of Act 204 is being thwarted in many instances
7 by the variance that allows tankless gas. Therefore, the legislature finds it is
8 necessary to modify the wording of the law and clarify that the variance allowing
9 tankless gas shall require application by an ultimate occupant of the dwelling unit
10 and only such occupant. If the occupant is not available, then the variance
11 application shall not be accepted for processing and said variance shall not be
12 available.

13 SECTION 2. Section 196-6.5, Hawaii Revised Statutes, is amended to read
14 as follows:

15 **“§196-6.5 Solar water heater system required for new single-family**
16 **residential construction.**

17 (a) On or after January 1, 2010, no building permit shall be issued for a
18 new single-family or duplex dwelling that does not include a solar water heater
19 system that meets the standards established pursuant to section 269-44, unless the
20 coordinator approves a variance.

____.B. NO. _____

1 (b) ~~[A variance application]~~ Applications for the following variances shall
2 only be accepted if submitted by an architect or mechanical engineer licensed under
3 chapter 464, who attests that:

- 4 (1) Installation is impracticable due to poor solar resource;
- 5 (2) Installation is cost-prohibitive based upon a life cycle cost-
6 benefit analysis that incorporates the average residential utility
7 bill and the cost of the new solar water heater system with a life
8 cycle that does not exceed fifteen years; or
- 9 (3) A renewable energy technology system, as defined in section
10 235-12.5, is substituted for use as the primary energy source for
11 heating water; ~~[or]~~

12 (c) Applications for the following gas variance shall be accepted on the
13 following basis only if the variance applicant is the party who will ultimately control
14 the energy consumption cost, and as part of the application, the applicant signs an
15 affidavit that the applicant will be the buyer-owner of the new house and that the
16 applicant has read a flyer issued by the State of Hawaii Department of Business,
17 Economic Development and Tourism (DBEDT) showing the life cycle cost
18 comparisons of a solar water heater and tankless gas water heater of equivalent
19 capacities.

20 ~~[(4)]~~ (1) A demand water heater device approved by Underwriters
21 Laboratories, Inc., is installed; provided that at least one other

1 gas appliance is installed in the dwelling. For the purposes of
2 this paragraph, 'demand water heater' means a gas-tankless
3 instantaneous water heater that provides hot water only as it is
4 needed.

5 ~~[(b)]~~ (d) A request for a variance shall be submitted to the coordinator on an
6 application prescribed by the coordinator and shall include a description of the
7 location of the property and justification for the approval of a variance using the
8 criteria established in subsection (a). A variance shall be deemed approved if not
9 denied within thirty working days after receipt of the variance application. The
10 coordinator shall publicize:

- 11 (1) All applications for a variance within seven days after receipt of
12 the variance application; and
- 13 (2) The disposition of all applications for a variance within seven
14 days of the determination of the variance application.

15 ~~[(e)]~~ (e) The director of business, economic development, and tourism may
16 adopt rules pursuant to chapter 91 to impose and collect fees to cover the costs of
17 administering variances under this section. The fees, if any, shall be deposited into
18 the energy security special fund established under section 201-12.8.

19 ~~[(d)]~~ (f) Nothing in this section shall preclude any county from establishing
20 procedures and standards required to implement this section.

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: RELATING TO AFFORDABLE HOUSING CREDITS

PURPOSE: This proposed Bill for an Act maintains the intent of Act 98 (12), Session Laws of Hawai'i 2012, by providing affordable housing credits to the department of Hawaiian home lands, while maintaining the integrity of county housing programs throughout the state and preserve the principle of "home rule," allowing the county to serve its residents as it should.

MEANS: Amend Section 46-15.1 (b), Hawai'i Revised Statutes

JUSTIFICATION: Under Act 98 (12), it requires each county to issue affordable housing credits to the Department of Hawaiian Home Lands (DHHL) for each home or lot developed by DHHL. Furthermore, this Act allows DHHL to sell credits to developers to satisfy the developer's affordable housing zoning obligations without income or location restrictions. It will also be more difficult to achieve smart growth land use patterns, where housing is located close to jobs and employment centers. Amendments to Section 46-15.1 (b), Hawai'i Revised Statutes, are necessary to protect each county's ability to provide affordable housing for those who most need such housing, and to enable the county to do its job in a fair and equitable manner.

A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING CREDITS.

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

1 SECTION 1. The purpose of Act 141, Session Laws of Hawaii
2 2009, was to require counties to issue affordable housing
3 credits to the Department of Hawaiian Home Lands for all
4 existing and future Hawaiian home lands projects upon request.
5 Act 141 (09) was then amended to Act 098, Session Laws of
6 Hawai'i 2012, which further defines what the credits shall be
7 issued for, and explicitly releases the Department of Hawaiian
8 Home Lands from any income or other requirements attached to a
9 respective county's affordable housing credits. The legislature
10 finds that the relationship between the Department of Hawaiian
11 Home Lands and the respective counties established by Act 098
12 (12) violates the principles of homerule and does not encourage
13 the kind of working relationship between the counties and the
14 Department of Hawaiian Home Lands necessary to effectively
15 address the affordable housing problem in each county. The
16 legislature also finds that Act 098 (12) could create a racially
17 discriminatory effect by disproportionately allocating more
18 affordable housing resources to one racial group over another.
19 In order to address each county's affordable housing needs based

____.B. NO. _____

1 on fairness and equality, this bill allows each county to
2 address its affordable housing needs, allows the Department of
3 Hawaiian Home Lands to receive county affordable housing credits
4 for mutually beneficial projects on Department of Hawaiian Home
5 Lands, and also supports a good working relationship between the
6 Department of Hawaiian Home Lands and the respective counties.

7 SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) [~~Each county shall issue~~] By mutual consent, each
10 respective county and the Department of Hawaiian Home Lands
11 shall agree to the issuance of affordable housing credits to the
12 Department of Hawaiian Home Lands with respect to [~~existing and~~]
13 future Hawaiian home lands projects upon a request for such
14 credits by the Department of Hawaiian Home Lands. The credits
15 shall be transferable and shall be issued on a one-unit for one-
16 unit basis. Credits shall be issued for each single-family
17 residence, multi-family unit, or other residential unit[~~, or if~~
18 ~~allowed under the county's affordable housing programs, vacant~~
19 ~~lot,~~] developed by the Department of Hawaiian Home Lands.

20 The credits may be applied county-wide within the same
21 county in which the credits were earned to satisfy affordable
22 housing obligations imposed by the county on market priced

.B. NO.

1 residential and non-residential developments. [~~County-wide or~~
2 ~~project-specific requirements for the location of affordable~~
3 ~~housing units; housing class, use, or type; construction time;~~
4 ~~or other county requirements for affordable housing units shall~~
5 ~~not impair, restrict, or condition the county's obligation to~~
6 ~~apply the credits in full satisfaction of all county~~
7 ~~requirements whether by rule, ordinance, or particular zoning~~
8 ~~conditions of a project.]~~

9 For purposes of this section, "affordable housing
10 obligation" means the requirement imposed by a county to develop
11 [~~vacant lots,~~] single-family residences, multi-family
12 residences, or any other type of residence for sale or rent to
13 individuals within a specified income range."

14 SECTION 3. Statutory material to be deleted is bracketed
15 and in strikethrough. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval,
17 and shall be repealed on June 30, 2015; provided that section
18 46-15.1(b), Hawaii Revised Statutes, shall be reenacted pursuant
19 to section 3 of Act 141, Session Laws of Hawaii 2009.

20

21

INTRODUCED BY: _____

Council Chair
Darryl A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.maui-county.gov/council

September 4, 2012

Councilmember Mel Rapozo, President
Hawaii State Association of Counties
4396 Rice Street, Suite 209
Lihue, Hawaii 96766

Dear President Rapozo:

**SUBJECT: 2013 HAWAII STATE ASSOCIATION OF COUNTIES ("HSAC")
LEGISLATIVE PACKAGE (PAF 12-159)**

I am writing to request that the HSAC Executive Committee consider extending the deadline for consideration of the 2013 HSAC Legislative Package until its October meeting.

I have transmitted for consideration by the Maui County Council the enclosed resolution entitled "APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL REQUIRING THE LABELING OF GENETICALLY ENGINEERED FOOD PRODUCTS".

Unfortunately, the Maui County Council has not yet been able to consider the proposal. My understanding is that the matter will be scheduled for consideration at the Council's September 21, 2012, meeting.

Last year, the Hawaii County Council, Kauai County Council, and Maui County Council approved a virtually identical proposal for inclusion in the 2012 HSAC Legislative Package. However, without the support of the Honolulu City Council, the proposal did not make it into the final package.

Given substantial support for the measure last year, further consideration by the councils is warranted. I respectfully ask for the opportunity to have the measure presented to the councils. Regardless of any decision made by the Maui County Council at its September 21, 2012, meeting, the HSAC Executive Committee will still be able to consider the various counties' proposals for the HSAC package in October.

Thank you for your consideration of my request. Should you have any questions, please contact me at (808) 270-5504.

Sincerely,

A handwritten signature in black ink that reads "Elle Cochran".

ELLE COCHRAN
Council Member

paf:cmn:12-159d

Enclosure

Resolution

No. _____

APPROVING FOR INCLUSION IN THE 2013 HAWAII
STATE ASSOCIATION OF COUNTIES LEGISLATIVE
PACKAGE A STATE BILL REQUIRING THE
LABELING OF GENETICALLY ENGINEERED FOOD
PRODUCTS

WHEREAS, the growth of genetically engineered food production has been swift and pervasive throughout the nation; and

WHEREAS, the long-term effects of consuming genetically engineered foods are unclear, and without mandatory labeling requirements of these foods consumers may unknowingly be putting their health at risk; and

WHEREAS, consumers should have the right to know what is in food available for sale so that they can make informed choices; and

WHEREAS, enactment of State legislation requiring the labeling of genetically engineered food products would meet the demand of Hawaii's residents for informed choices concerning the foods they consume; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill, attached as Exhibit "A", to require the labeling of genetically engineered food products sold in the State, is approved for inclusion in the 2013 Hawaii State Association of Counties ("HSAC") Legislative Package; and
2. That a certified copy of this resolution be transmitted to the HSAC Executive Committee.

Exhibit "A"

A BILL FOR AN ACT

RELATING TO FOOD LABELING.

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

1 SECTION 1. Chapter 328, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§328- Genetically engineered material; labeling
5 requirement. (a) Beginning January 1, 2014, no food or raw
6 agricultural commodity shall be sold in the State if it contains
7 a genetically engineered material, or was produced with a
8 genetically engineered material, unless it bears a label that
9 provides the following disclosure notice in bold-face print and
10 not less than ten-point type:

11 "THIS PRODUCT CONTAINS A GENETICALLY ENGINEERED MATERIAL,
12 OR WAS PRODUCED WITH A GENETICALLY ENGINEERED MATERIAL."

13 (b) A food shall be considered to have been produced with
14 a genetically engineered material if:

15 (1) The organism from which the food is derived has been
16 injected or otherwise treated with a genetically
17 engineered material (except that the use of manure as

1 a fertilizer for raw agricultural commodities may not
2 be construed to mean that those commodities are
3 produced with a genetically engineered material);

4 (2) The animal from which the food is derived has been fed
5 genetically engineered material; or

6 (3) The food contains an ingredient that is a food to
7 which paragraph (1) or (2) applies.

8 (c) For the purposes of this section:

9 "Genetically engineered material" means material derived
10 from any part of a genetically engineered organism, without
11 regard to whether the altered molecular or cellular
12 characteristics of the organism are detectable in the material.

13 "Genetically engineered organism" means:

14 (1) An organism that has been altered at the molecular or
15 cellular level by means that are not possible under
16 natural conditions or processes (including recombinant
17 deoxyribonucleic acid and ribonucleic acid techniques,
18 cell fusion, microencapsulation, macroencapsulation,
19 gene deletion and doubling, introducing a foreign
20 gene, and changing the positions of genes), other than
21 a means consisting exclusively of breeding,

____.B. NO. _____

1 conjugation, fermentation, hybridization, in vitro
2 fertilization, tissue culture, or mutagenesis; or

3 (2) An organism made through sexual or asexual
4 reproduction, or both, involving an organism described
5 in paragraph (1), if possessing any of the altered
6 molecular or cellular characteristics of the organism
7 so described.

8 (d) This section shall not apply to food that is:

9 (1) Served in restaurants or other establishments in which
10 food is served for immediate human consumption;

11 (2) Processed and prepared primarily in a retail
12 establishment and is ready for human consumption, of
13 the type described in paragraph (1), and is offered
14 for sale to consumers but not for immediate human
15 consumption in the establishment and is not offered
16 for sale outside the establishment; or

17 (3) A medical food as defined in section 346-67.

18 (e) A violation of any provision of this section, or any
19 rule adopted pursuant to this chapter, shall be punishable by a
20 fine of not more than \$1,000 for each violation.

21 (f) The director of health shall adopt rules, pursuant to
22 chapter 91, necessary for the purposes of this section,

____.B. NO. _____

1 including rules for the testing of foods to determine the
2 presence and content of genetically engineered material."

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act shall take effect upon its approval.

5

6

INTRODUCED BY: _____

7