

SB 246

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
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In reply, please refer to:
File:

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
S.B. 246, RELATING TO AUTOMOBILE PARTS RECYCLING

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

February 5, 2009
2:45 P.M.

1 **Department's Position:** The Department of Health (Department) appreciates the intent of the bill, but
2 opposes this bill in its current form.

3 **Fiscal Implications:** An unspecified deposit on all new lead-acid batteries and new tires sold, which
4 can be refunded when a used one with appropriate marking is returned to the retailers. The amount of
5 batteries and tires that are not returned is not estimated.

6 **Purpose and Justification:** This bill establishes a deposit program for lead-acid batteries and tires,
7 similar to the current deposit beverage container program. The bill establishes an unspecified deposit
8 that will be charged by the retailer on the consumer of a lead-acid battery or tire. The consumer would
9 receive the deposit when a used battery with the appropriate deposit marking is taken to the retailer. The
10 collected deposits are transferred to the Department, and in turn the Department reimburses the retailers
11 for any deposits paid out, plus an additional handling fee.

12 We favor increasing battery and tire recycling and agree that the proposed deposit will increase
13 the incentive to return an old battery or tire instead of leaving it on the side of the road. However, we
14 prefer the current practice by the lead-acid battery retailers, who established their own deposit or "core

1 charge" program instead of the proposed deposit program to be run by the Department. The Department
2 would only be increasing program costs by receiving and paying out deposits to the same retailers, when
3 they could hold onto the money themselves.

4 Currently, HRS 342I requires that retailers and wholesalers accept old batteries and tires when
5 new batteries or tires are purchased. The cost of a new battery and tire shall include the cost of
6 disposing the old item, and shall not be reduced should the customer not turn in the old item. HRS 342I
7 also requires that signage, notifying the customers of this requirement, is posted in the stores.

8 Retailer practices vary. For the battery industry, some retailers charge a deposit or "core charge"
9 of about \$10 to consumers who do not have a used lead acid battery to exchange at the time of sale. The
10 consumer can get their deposit back when a used battery is returned, provided they can show their
11 receipt. These retailers also accept used batteries at no charge at any time from "walk-ins", provided the
12 quantities are limited. Other retailers do not charge the consumer a deposit, and accepts used batteries
13 without charge at any time, again in limited quantities. These deposit or "core charge" programs are run
14 entirely by the retailers themselves.

15 For the tire industry, most retailers do not institute a "core charge", but accepts the old tire when
16 a new tire is purchased. The price of the new tire is inclusive of the disposal cost. Thus, the customer is
17 paying the disposal costs regardless of whether they use the service.

18 Any new recycling program will require additional staff and operating money. While the bill
19 provides that "excess" funds (funds received that exceed what is needed to refund deposits and pay
20 handling fees) can pay administrative costs, it is not clear that such amounts will be sufficient.

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

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From: Liu, Dexter D [dliu@honolulu.gov]
Sent: Wednesday, February 04, 2009 5:06 PM
To: ENETestimony
Subject: Testimony for SB 246 Relating to Automobile Parts Recycling

Testimony for SB 246 Relating to Automobile Parts Recycling

Public Hearing - February 5, 2009, 2:45 p.m., Conference Room 225.

My name is Dexter Liu. I am the Leeward District Manager for the City and County Department of Parks and Recreation. I support SB 246 because it will have a positive affect the maintenance operations under me.

I am responsible for the maintenance of all City parks in the Leeward District which runs from everything west of Pearlridge Shopping Center, (Kaonohi Street) to Keeau Beach Park on the Leeward Coast and as far up north as Whitmore Village area.

The Leeward Coast parks are famous dumping grounds for people who wish to dispose of their trash and are too lazy to take it to the dump or convenience centers. Or they don't want to have to pay the disposal fees.

During the 2008 calendar year, my staff had to retrieve and dispose of 1525 tires of various sizes at a cost to the City of \$4620 in disposal fees. This does not include man-hour and equipment cost for the retrieval and disposal. We have also had to dispose of numerous discarded batteries. It also takes staff away from doing other maintenance tasks.

I support this bill because it will help keep our beaches and parks clear of the visual plight of the discarded tires and batteries and provide a cleaner environment for our keiki to recreate.

Thank you for taking the time to review this testimony.

Dexter Liu
Leeward Oahu District Manager
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From: Don Fern [dfern@cyclecityltd.com]
Sent: Wednesday, February 04, 2009 10:25 AM
To: ENETestimony
Subject: SB246 Bill Testimony

To: Committee on Energy and Environment
Chairman: Senator Mike Gabbard
Hearing Date and Time: Thursday, February 5, 2009
2:45pm - State Capitol - Conference room 225
From: Donald S. Fern, President, Hawaii Motorcycle Dealers Association

Aloha Chairman Gabbard,

The idea behind this bill as I see it is to encourage retail customers to return used tires and batteries to the dealer. This bill not only creates a huge amount of work, it is also unnecessary. There are already requirements for dealers to accept used batteries and tires back, plus the current tire sale and recycling reports.

If dealers are required to do this on every tire and battery sold, it will create a huge amount of work and reporting. It will also create a lot of fund movement back and forth between the Dept. of Health and the dealers.

HMDA strongly opposes this bill as unnecessary, redundant, time consuming and costly.

Mahalo,

Don

Donald S. (Don) Fern
President,
Hawaii Motorcycle Dealers Association
dfern@cyclecityltd.com

February 4, 2009

Testimony in OPPOSITION to SB 246
Relating to Automobile Parts Recycling
Presented to the Senate Committee on Energy and Environmental Protection and to the Senate
Committee on Commerce and Consumer Protection

At the joint-committee hearing 2:45 p.m., Thursday, February 5, 2009
in Conference Room 225, Hawaii State Capitol

Submitted by David H. Rolf, for the Hawaii Automobile Dealers Association
Hawaii's Franchised New Car Dealers

Chairs Gabbard and Baker and members of the committees,

While the intent may be worthy, this proposed SB 246 searches for a complicated and costly solution for a yet-to-be defined problem with regard to Hawaii's procedures for disposal of tires and batteries.

Hawaii already has disposal requirements and penalties for violators in place for those who handle lead acid batteries and tires in the state. The civil penalty for violating the current law is \$10,000 for each separate offense. (HRS 342 I- 8). The severe penalty remains in place and the proposed procedures in this bill, because they are cumbersome and complex, give great concern to retailers handling these products.

A fundamental and primary concern is this: This bill fails to define a specific problem.

Beyond that, specific issues abound with regard to implementation of this proposal:

- 1) the bill doesn't specify the "refund value"

Trying to sell this bill without this amount, is like trying to sell someone a car without a price.

- 2) full implementation is required by July 1, 2010

In-triplicate credit sale contracts and retail purchase orders, which, according to the bill, must bear tire fees and battery fees deposited, have already been printed and ordered in quantity by many dealerships.

- 3) full implementation would require rules and hearings, which for a program this complicated may take years, and all without a specific problem being defined.

Further, complex proposals like this one would involve small business review

Note: The Small Business Regulatory Review Board was established on July 1, 1998 with passage of the Small Business Regulatory Flexibility Act. Subsequently, the role of the Board has been codified in Chapter 201M, Hawaii Revised Statutes.

- 4) deposit refunds are on batteries and tires will be provided on those bearing a yet-to-be-determined "official uniform stamp."

Products that come on the original equipment manufacturer's product (like the tires on a new car, or the battery in a new car) will not bear this stamp and must have such "affixed" in order to be eligible for a refund. Procedures and costs have not been considered.

- 5) a "management audit" shall be conducted to determine the amount of unredeemed refund value, according to the bill

A better use of an audit would be one to determine the size and scope of this yet-to-be defined problem -- which may turn out to be limited to one island or only specific areas on an island.

- 6) recent removals of monies deposited into special funds designed for one purpose illustrate the inadvisability of not knowing in advance the required use of those monies.

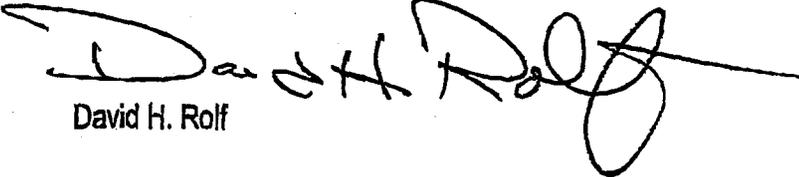
If any studies are to be done, they should be in advance of authorizing a costly and complicated program.

In conclusion, as with many such programs, the good players are punished by being required to comply with complex and costly procedures, while the bad players -- those who illegally dispose of batteries and tires--see little enforcement of the laws. *One auto dealer already pays \$3.20 per tire to an authorized facility for disposal. The dealer faithfully complies with the disposal laws. The authorized facility follows the law. This bill would make the dealer and customers comply with a complex and costly law while another law, which was designed to prevent the illegal dumping by individuals, is not being adequately enforced.*

We respectfully request that SB 246 be held.

Respectfully submitted,

The Hawaii Automobile Dealers Association


David H. Rolf

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Sierra Club Hawai'i Chapter

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SENATE COMMITTEE ON ENERGY AND ENVIRONMENT SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

February 5, 2009, 2:45 P.M.

(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF SB 246

Chair Baker, Chair Gabbard, and members of the Committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports SB 246, requiring a deposit on lead acid batteries and automobile tires as an incentive to encourage recycling.

This common sense measure will not only help to increase recycling and divert waste from our crowded landfills, but it will also significantly reduce the contamination arising from the heavy metals contained in the lead acid batteries.

Thank you for the opportunity to testify.

From: Cherule Carvalho [cherelle@motorcyclesperiod.com]
Sent: Tuesday, February 03, 2009 3:22 PM
To: ENETestimony
Subject: Bill# SB246

I oppose this bill # SB246

I have been in the motorcycle industry for over 8 years now! 7 years of business at Two Wheels, we have always accepted any tire or battery any customer would chose to drop off to us. Whether they bought a new one or not. We set up a pallet outside the building and a tire rack outside our buidling so that customers were able to have full access to dropping off any battery/tire they wanted to dispose of. Yes, it costs the company money but we were willing to deal with those costs.

I understand that the environment is where this bill would benefit but why penalize the dealers who are the people who are trying to keep our customers moving and able to do their daily tasks or trying to enjoy their farm or property? There should be other options.

I deal with most of the paperwork here at Motorcycles Period. To try and keep track of each deposit, pay Dept of Health, than wait for them to pay us back after we pay the proper company to come and dispose of them is unnecessary.

Please why not set up a tire/battery drop off center which would allow any person to dispose of these items. No one can dispose of them at our transfer stations so where do most people put them....in a dirt road a few miles from their house! We have that problem here on Kauai and this would only make it worse.

**The hearing for this bill is Thursday, February 5, 2009
2:45pm - State Capitol - Conference room 225**

ENETestimony@Capitol.hawaii.gov
committee:Committee on Energy and Environment
Chair: Senator Mike Gabbard
And: Committee on Commerce and Consumer Protection
Chair: Senator Rosalyn H. Baker

Cherule Carvalho
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From: Mark Ely [ely_mark31@hotmail.com]
Sent: Thursday, February 05, 2009 11:33 AM
To: ENETestimony
Subject: SB246

To: Committee on Energy and Environment

Hearing Feb. 5th 2:45 p.m. State Capitol Conference Room 225

I, Mark Ely, strongly oppose this bill for the following reasons:

1. The bill does not achieve the goal of an incentive for compliance with HRS3421 which mandates the recycling of batteries and tires.
 - a. Unless the deposit is significant, there is no incentive to return the batteries/tires to the dealer. However, if the incentive is too significant, it causes a burden on the customer. In today's economic times, there are many who cannot pay their bills, save money, and nonetheless have the C&C hold their money for a deposit. The burden on the customer is unduly burdensome. This bill monetarily punishes those customers who comply with the law by holding their money.
 - b. Does not prevent customers from buying tires and batteries online. Thus, no deposit.
 - c. The mere fact that the bill allows for handling fee to dealer and to cover some of the government cost means that the bill is expecting a certain amount of customers not returning the product for their refund.
2. It will cause an accounting nightmare for all dealers.
 - a. To make sure that the dealer is only refunding for product it sold, the customer has to keep the receipts. Batteries and tires can easily last over a year long. Keeping those records are unduly impractical.
 - b. As for accounting issues:
 - 1) Will there be a tax on the deposit? If so, it will cause a GET nightmare.
 - 2) It will cause many dealers to have to revamp their current computer programs to add a separate line item. It will cause the dealer to have many journal entries to account for the refunds. Sure that the handling fee will be insignificant to cover the cost of accounting.
 - 3) When the dealer gives the customer their refund, when will the dealer get their refund?
3. The administration of the program is unpractical and unenforceable:
 - a. Can the stamps or labels be replicated as to cause fraudulent refunds?
 - b. Where is the stamp going to be affixed? What if the stamp or label comes off? Who is going to judge whether customer gets money or not?
 - c. What proof does the dealer have to give to the C&C for their refund?
 - d. This bill does not account for those customers who move. Will they lose their Deposits?

Final commentary:

SB246 seems to be similar to the HI5 program. However, the significant difference will be the deposit amount. The HI5 program involves a product that is consumed out of want/desire and costs only cents. SB246 involves a product that is consumed out of necessity. Because not stated, the deposit amount seems significant.

Mark Ely
Vice President
South Seas Cycle Exchange Inc.

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