

Honolulu, Hawaii

APR 03 2013

RE: H.B. No. 672  
H.D. 2  
S.D. 2

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which was referred H.B. No. 672, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit the sale of any tobacco product or vapor product to a minor under eighteen years of age and the purchase of any tobacco product or vapor product by a minor under eighteen years of age.

Your Committee received testimony in support of this measure from the Department of Health, Coalition for a Tobacco-Free Hawai'i, Volcano Fine Electronic Cigarettes, and numerous individuals. Your Committee received comments on this measure from the American Cancer Society Cancer Action Network.

Your Committee finds that smoking and tobacco use remain Hawaii's and the nation's leading cause of preventable morbidity and mortality. Tobacco companies spend millions of dollars each year in Hawaii on advertising, marketing, and promotions to attract "replacement smokers." Every year, approximately 1,500 Hawaii youth become new daily smokers.

Your Committee has heard the concerns that the term "vapor product", as defined in this measure, is too narrow. "Vapor product" refers only to a noncombustible tobacco-derived product containing nicotine and is not inclusive of the electronic



mechanism, which simulates smoking and delivers nicotine and other substances; the cartridge; or other components of the device. Your Committee concludes that the preferred definition is "electronic smoking device", as this broader definition covers the entire electronic product. Amendments to this measure are therefore necessary to incorporate this more appropriate definition.

Your Committee has also heard the concerns about the definition of "tobacco product" as proposed by this measure. Your Committee notes that existing statute currently contains a very broad definition of "tobacco". Attempting to narrow this definition in any shape or form may impact other statutory references and hamper enforcement efforts. Your Committee concludes that amendments to this measure are necessary to remove language that would have altered existing references to tobacco in section 709-908, Hawaii Revised Statutes.

Your Committee further finds that research has shown that preventing the display of tobacco products leads to a decrease in the number of children and youth experimenting with and becoming addicted to tobacco products. Prohibiting self-service displays where the customer has direct access to tobacco products is a realistic action to discourage tobacco company products at the point of sale in retail locations. Your Committee additionally finds that the Department of Health and the Department of the Attorney General have offered language relating to tobacco product placement. This language addresses constitutional issues associated with product placement restrictions and aligns with the restrictions under the federal Family Smoking Prevention and Tobacco Control Act of 2009. Amendments to this measure are therefore necessary to incorporate the consensus language from the Department of Health and the Department of the Attorney General.

Accordingly, your Committee has amended this measure by:

- (1) Prohibiting the sale of tobacco or electronic smoking devices to a minor under eighteen years of age and the purchase of tobacco product or electronic smoking devices by a minor under eighteen years of age, rather than prohibiting the sale or purchase of tobacco products and vapor products by minors under eighteen years of age;
- (2) Inserting a definition of "electronic smoking device";



- (3) Deleting definitions for "tobacco product" and "vapor product" and removing proposed language in section 709-908, Hawaii Revised Statutes, that would have altered references to "tobacco";
- (4) Inserting language to require retailers to sell cigarettes, smokeless tobacco, and all other tobacco products only in a direct face-to-face exchange between the retailer and consumer but permitting exceptions for retail tobacco stores, bars, or establishments where the minimum age for admission is eighteen;
- (5) Inserting an effective date of July 1, 2013; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 672, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 672, H.D. 2, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce and  
Consumer Protection,



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ROSALYN H. BAKER, Chair



