

STAND. COM. REP. NO. 2780

Honolulu, Hawaii

FEB 28 2014

RE: S.B. No. 2495
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred S.B. No. 2495, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ELECTRONIC SMOKING DEVICES,"

begs leave to report as follows:

The purpose and intent of this measure is to regulate the sale, marketing, and use of electronic smoking devices.

More specifically, this measure:

- (1) Includes electronic smoking devices within the definition of "tobacco products" under chapter 245, Hawaii Revised Statutes;
- (2) Increases the license fee for persons engaged as a wholesaler or dealer of cigarettes or tobacco products, including electronic smoking devices;
- (3) Increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes or tobacco products, including electronic smoking devices;
- (4) Establishes an excise tax on electronic smoking devices of an unspecified per cent of the wholesale price of each electronic smoking device kit, electronic smoking device nicotine cartridge, or electronic smoking device nicotine refill sold, used, or possessed by a wholesaler or dealer on or after October 1, 2014;



- (5) Amends Hawaii's anti-smoking statute to prohibit the use of electronic smoking devices in places open to the public and places of employment; and
- (6) Clarifies that the sale, distribution, or display of electronic smoking devices is restricted in the same manner as cigarettes and other tobacco products.

Your Committee received written comments in support of this measure from the Department of Human Resources Development, American Cancer Society Cancer Action Network, Coalition for a Tobacco-Free Hawaii, University of Hawaii Student Health Advisory Council, and twenty-three individuals. Written comments in opposition were received from Black Lava Vape, PC Gamerz, and twenty-one individuals. The Department of Taxation, Hawaii Food Industry Association, Tax Foundation of Hawaii, and three individuals submitted written comments on the measure.

Your Committee finds that the federal Food and Drug Administration has not yet exercised its regulatory authority over electronic smoking devices. As a result, electronic smoking devices are manufactured without regulatory oversight or quality control. Your Committee also finds that including electronic smoking devices under the existing definition of "tobacco products" in section 245-1, Hawaii Revised Statutes, makes the licensing and permitting requirements for tobacco products under chapter 245, Hawaii Revised Statutes, applicable to electronic smoking devices. Your Committee further finds that when compared to other states, Hawaii's tobacco licensing fees are among the lowest in the country.

Your Committee notes that this measure is a work in progress and further discussion is required. Your Committee also notes that, according to the state Attorney General, the subject matter of this measure would be better suited to a vehicle with a different title, such as "Relating to Tobacco."

Your Committee has amended this measure by:

- (1) Changing to an unspecified amount the license fee for persons engaged as a wholesaler or dealer of cigarettes or tobacco products, retail tobacco permit fee for retailers engaged in the retail sale of cigarettes or

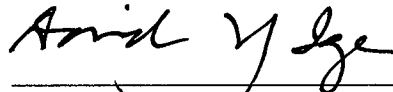


tobacco products, and the fee for a duplicate retail tobacco permit; and

- (2) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2495, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2495, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



DAVID Y. IGE, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* <i>SB2495 SD1</i>	Committee Referral: <i>HTH/CPN, WAM</i>	Date: <i>2-25-14</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)		.	✓	
CHUN OAKLAND, Suzanne			✓	
DELA CRUZ, Donovan M.				✓
ENGLISH, J. Kalani		✓		
ESPERO, Will		✓		
KAHELE, Gilbert			✓	
KEITH-AGARAN, Gilbert S.C.		✓		
KOUCHI, Ronald D.				✓
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			
TOKUDA, Jill N.	✓			
SLOM, Sam			✓	
	<i>54</i>	<i>3</i>	<i>4</i>	<i>2</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Michelle N. Kidani</div>				
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*Only one measure per Record of Votes