

Testimony in SUPPORT of SB 2495, “Relating To Electronic Smoking Devices”

The American Heart Association supports SB 2495, “Relating to Health.”

The American Heart Association is dedicated to supporting state and local action to protect the public from the dire effects of tobacco. As you are undoubtedly aware, tobacco use is one of the leading preventable risk factors for cardiovascular diseases. As we’ve learned through our policy efforts to restrict smoking in public and work places, such policies not only reduce exposure to non-smokers of deadly environmental tobacco smoke, but also have the added benefit of changing the public norms regarding tobacco use.

The emergence of e-cigarettes threaten to reverse those advances in de-normalizing tobacco use. The science around the safety of use of e-cigarettes has not yet been fully studied, and because e-cigarettes are not yet regulated by the U.S. Food and Drug Administration the nicotine levels and chemicals in the various brands being marketed vary. In addition, there is inadequate evidence to support the use of e-cigarettes as a smoking cessation strategy. In fact, it should be noted that one of the concerns about expanded and increased use of e-cigarette products in the general population is the dual use of cigarettes and e-cigarette products. The AHA recommends that clinicians should continue to discourage use of all tobacco products and emphasize prevention of tobacco initiation and tobacco cessation as primary goals for tobacco control.

With last year’s passage of legislation banning the sales of e-cigarettes to minors, the AHA feels that SB 2495 is needed to enable effective enforcement of that law.

Legislators are encouraged to support SB 2495 to help restrict access of e-cigarettes to minors through better identification of those who sell the product, and through better enforcement to insure that the devices are not sold illegally to minors.

Respectfully submitted,

Donald B. Weisman
Hawaii Government Relations/Community Relations Director

Serving Hawaii since 1948

Mission Statement:

“Building healthier lives, free of cardiovascular diseases and stroke.”

For more information on the AHA’s educational or research programs, visit www.heart.org or contact your nearest AHA office.

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American Cancer Society
Cancer Action Network
2370 Nu`uanu Avenue
Honolulu, Hawai`i 96817
808.432.9149
www.acscan.org

Senate Committee on Health
Senator Josh Green, Chair
Senator Rosalyn H. Baker, Vice Chair

Senate Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator Brian Taniguchi, Vice Chair

Hearing: February 7, 2014; 9:00 a.m.

SB 2495 – RELATING TO ELECTRONIC SMOKING DEVICES

Cory Chun, Government Relations Director – Hawaii Pacific
American Cancer Society Cancer Action Network

Thank you for the opportunity to provide supportive testimony of SB 2495, which requires persons engaged as wholesalers and dealers of electronic smoking devices and retailers of electronic smoking devices to obtain a tobacco sales license; amends Hawaii's smoke-free laws to prohibit the use of electronic smoking devices in places open to the public and places of employment; and clarifies that the sale, distribution, or display of electronic smoking devices is restricted in the same manner as cigarettes and other tobacco products.

The American Cancer Society Cancer Action Network (ACS CAN) is the nation's leading cancer advocacy organization. ACS CAN works with federal, state, and local government bodies to support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

ACS CAN is supportive of licensing requirements for electronic smoking devices retailers, in order to create consistency with tobacco retailers. Licensing requirements provide a level of oversight over these unregulated devices.

ACS CAN is also supportive of prohibiting the use of electronic smoking devices in public places and workplaces. The use of e-cigarettes in public places normalizes the act of smoking and undermines Hawaii's successful efforts to create a smoke-free environment that models healthy behavior, especially for a new generation of young people. This simulation of smoking also makes enforcement of the current smoke-free workplace law difficult because of the similarities between the two.

For the purposes of regulating sales of e-cigarettes including samples, vending, and placement behind the counter, we encourage the committees to also consider including electronic smoking devices in the definition of tobacco products.

Thank you for the opportunity to submit testimony on this matter.



To: The Honorable Josh Green, Chair, Committee on Health
The Honorable Rosalyn H. Baker, Vice Chair, Committee on Health

The Honorable Rosalyn H. Baker, Chair, Committee on Commerce & Consumer Protection

The Honorable Brian T. Taniguchi, Vice Chair, Committee on Commerce & Consumer Protection

Members, Senate Committee on Health

Members, Senate Committee on Commerce & Consumer Protection

From: Tiffany L. Gourley, Policy & Advocacy Director

Date: February 4, 2014

Hrg: Senate Committee on Health/Commerce and Consumer Protection; Fri., February 7, 2014 at 9:00 a.m. in Rm 229

Re: **Support with Recommendations for SB 2495, Relating to Electronic Smoking Devices**

Thank you for the opportunity to offer testimony in **support of the intent of and offer comments** on SB 2495, which requires persons engaged as wholesalers and dealers of electronic smoking devices (ESDs) and retailers of ESDs to obtain a license.

The Coalition for a Tobacco Free Hawaii (Coalition) is a program under the Hawaii Public Health Institute working to reduce tobacco use through education, policy and advocacy. Our program consists of over 100 member organizations and 2,000 advocates that work to create a healthy Hawaii through comprehensive tobacco prevention and control efforts.

The Coalition supports requiring ESD wholesalers and dealers to obtain a license and requiring ESD retailers to obtain a permit.

Currently, ESDs are not regulated at any level; therefore all emissions and chemicals released in exhalation are also unregulated. The first step to regulating these potentially harmful devices is to treat them similarly to other tobacco products. The Governor's package bills, SB 2871 and HB 2321, propose a new definition in section 328-J, HRS of "tobacco product", which includes ESDs. To provide for consistency within the Hawaii Revised Statutes (HRS), ESD wholesalers and dealers should be required to obtain the similar licenses as tobacco product wholesalers and dealers, and ESD retailers should be required to obtain similar permits as tobacco product retailers.

The Coalition recommends amending SB 2495 for ESD wholesalers and dealers to obtain a license from the Department of Taxation and for ESD retailers to obtain a permit from the Department of Taxation.



The Coalition recommends requiring ESD wholesalers and dealers to pay a license fee of \$250.00.

The Coalition recommends charging ESD wholesalers and dealers the same as tobacco wholesalers and dealers. In written testimony for SB 2497, which increases the license fee for persons engaged as a wholesaler or dealer of cigarettes or tobacco products, the Coalition recommended increasing the fee to \$250.00. Of the states that charge a tobacco wholesale and dealer license fee, Hawaii has the lowest wholesaler and dealer license fee in the nation. After state by state research on tobacco license fees for wholesalers, dealers, and distributors, the Coalition recommends the Legislature increase the wholesaler and dealer license fee to \$250.00. The current wholesaler and dealer license application fee is \$2.50. Nationally, the amounts range from no fee to \$1,500.00 per year. Of the 38 states that have fees, Hawaii has the lowest fee. Most states (26 out of 38) charge \$100.00 per year or more. 14 states charge \$200.00 per year or more and nine states charge between \$500.00 per year and \$1,500.00 per year. Hawaii is only state that charges a wholesaler less than a retailer.

The Coalition recommends requiring ESD retailers to pay a permit fee of \$50.00.

The Coalition recommends charging ESD retailers the same as tobacco retailers. In written testimony for SB 2497, which increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and other tobacco products, the Coalition recommended increasing the fee to \$50.00. Of the states that charge a retailer permit fee, Hawaii currently has one of the lowest retailer permit fees in the nation. The current permit application fee is \$20.00. Nationally, the amounts range from no fee to \$1,000.00 per year. Of the 32 states that have fees, 15 states charge more than \$20.00 per year but less than \$100.00 per year, with about half of those states charging \$50.00 per year or more. The average amount charged is \$83.75 per year.

The Coalition recommends adding in a subsection requiring ESD retailers to obtain a permit from the Department of Taxation and pay a permit fee of \$50.

For consistency with tobacco retailers, the Coalition recommends a similar process for ESD retailers, and suggests using similar language from section 245-2.5, HRS, and SB 2497 SD 1, Relating to Tobacco Regulation.

The Coalition recommends amending SB 2495 to earmark the revenues from all licenses and permits to go toward tobacco prevention and control programs.

In a recent poll conducted by Qmark for the Coalition, Hawaii residents overwhelmingly agree (94%) that it's important for the state to earmark some of the revenue from cigarette and tobacco taxes to fund tobacco prevention and quit smoking programs. Thus, the Coalition recommends earmarking the revenues and amending SB 2495.

The Coalition recommends amending the definitions of “electronic smoking device” and adding the definitions of “tobacco product” and “smoke or smoking” to be consistent with the proposed language in the Governor’s package bills, SB 2871 and HB 2321.

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**The Coalition for a Tobacco-Free Hawaii is a program of the Hawaii Public Health Institute*



The Coalition supports prohibiting distribution of ESD samples, coupons, and promotional materials in certain areas and restricting ESD product placement. The Coalition recommends including prohibiting sampling of the product.

Under the proposed new definitions and treating ESDs the same as tobacco products is paramount to uniformity and consistency throughout the law. Reducing youth access, initiation, and experimentation is critical to lowering tobacco use. The CDC reports that between 2011 and 2012, e-cigarette experimentation and recent youth doubled among middle and high school students in the United States.¹ Research has shown that preventing the display of tobacco products leads to a decrease in the number of adolescents experimenting with and becoming addicted to those tobacco products.²

As some ESDs contain nicotine and studies have shown that even those claiming to not contain nicotine contain nicotine,³ it is pivotal that ESD samples are prohibited and sales are restricted and treated similarly to cigarettes and other tobacco products.

Additionally, the Coalition recommends adding language that prohibits sampling of the product to avoid any loopholes at kiosks or retailers because no other tobacco product can be sampled at such locations.

Thank you for the opportunity to testify on this matter.

A handwritten signature in black ink, appearing to read "Tiffany L. Gourley". The signature is fluid and cursive, with a large loop at the end.

Tiffany L. Gourley, esq.
Policy and Advocacy Director

¹ Centers for Disease Control and Prevention, "Notes from the Field: Electronic Cigarette Use Among Middle and High School Students—United States, 2011-2012." Available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6235a6.htm>.

² Markus P. Bidell, *Case Study of Attempts to Enact Self Service Tobacco Display Ordinances: A Tale of Three Communities*, *Tobacco Control*, 71-77 (2000)

³ <http://northcoastalpreventioncoalition.org/wp-content/uploads/2013/11/E-Cigarettes-Fact-Sheet.pdf> Accessed 02-2014.

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: mz9995@hotmail.com
Subject: *Submitted testimony for SB2495 on Feb 7, 2014 09:00AM*
Date: Thursday, February 06, 2014 10:16:38 PM

SB2495

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner	Hawaii Smokers Alliance	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: icalkins@hawaii.rr.com
Subject: Submitted testimony for SB2495 on Feb 7, 2014 09:00AM
Date: Friday, February 07, 2014 6:21:34 AM
Attachments: [.-lock.DEMOCRATIC PARTY LINE.odt#](#)

SB2495

Submitted on: 2/7/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
IRA CALKINS	Individual	Support	No

Comments: Electronic Smoking Device; License; Smoking; Cigarettes; Tobacco Products; Restrictions; Ban; Permit Description: Requires persons engaged as wholesalers and dealers of electronic smoking devices and retailers of electronic smoking devices to obtain a license from the department of health. Limits the retail sale of electronic smoking devices to those retailers who also hold a retail tobacco permit. Specifies that the revenue from electronic smoking device license fees shall be used to support smoking cessation programs in the State. Amends Hawaii's anti-smoking statute to prohibit the use of electronic smoking devices in places open to the public and places of employment. Clarifies that the sale, distribution, or display of electronic smoking devices is restricted in the same manner as cigarettes and other tobacco products.

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: brianportal808@gmail.com
Subject: *Submitted testimony for SB2495 on Feb 7, 2014 09:00AM*
Date: Thursday, February 06, 2014 10:21:59 PM

SB2495

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Santiago	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: toler.christopher@yahoo.com
Subject: *Submitted testimony for SB2495 on Feb 7, 2014 09:00AM*
Date: Thursday, February 06, 2014 12:35:08 PM

SB2495

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Toler	Individual	Oppose	Yes

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: vaporsanonymous@gmail.com
Subject: Submitted testimony for SB2495 on Feb 7, 2014 09:00AM
Date: Friday, February 07, 2014 1:14:04 PM

SB2495

Submitted on: 2/7/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua Mayeda	Vapors Anonymous	Oppose	No

Comments: This just an attack on a growing e-cigarette market. This has nothing to do with the public's health or interest. It's just a way for the state to get it's cut of the pie. To increase taxes on e-cigarettes with the proceeds use to fund smoking cessation programs and cancer research is just redistribution of money. E-cigarettes equally do the same job as smoking cessation programs. If the nicotine is the concern, well, it's not the cause for cancer. In tobacco products, nicotine is the addiction and the tar and chemicals from tobacco smoke cause the cancer. So why are we raising taxes and using the proceeds to fund these programs again? Most smokers or ex-smokers find that using e-cigarette products to kick their smoking habit is more effective. Even long term e-cigarette users start to living healthier lives. Nicotine is basically like caffeine, but we won't go their with the coffee drinkers will we?

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: CathyTsaur@gmail.com
Subject: Submitted testimony for SB2495 on Feb 7, 2014 09:00AM
Date: Thursday, February 06, 2014 11:27:27 PM

SB2495

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Catherine Tsaur	Individual	Oppose	No

Comments: Dear Senator Green, It has come to my attention that the Senate Committee on Health and the Committee on Commerce and Consumer Protection are deliberating on legislation that would impose new taxes on e-cigarettes. I write to ask the Committees to not rush to judgment on e-cigarettes and allow the federal government the appropriate time to evaluate e-cigarettes as they have indicated they would. While they may have a similar moniker, e-cigarettes are different than conventional cigarettes. E-cigarettes rely on a small battery and they contain a heating element that vaporizes a liquid which is then inhaled. E-cigarettes use tobacco-derived nicotine and they do not actually burn tobacco so it does not create smoke. The Food and Drug Administration (FDA) has expressed its intention to regulate e-cigarettes as a tobacco product. A thorough federal framework for e-cigarettes could help address some of the complex issues that surround them. So in an environment where the FDA is best positioned to evaluate e-cigarettes, Hawaii legislators' attempt to prematurely tax e-cigarettes — could depress the number of adult consumers who may be looking for newer forms of tobacco products. New state taxes on e-cigarettes could be counterproductive at this time. We do not yet know enough about adult consumers interest in new tobacco products like e-cigarettes. Therefore, a comprehensive federal approach to e-cigarettes is better than a patchwork of hastily applied state taxes and broad restrictions. Thank you,
Cathy Tsaur

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Dear Senator Green

It has come to my attention that the Senate Committee on Health and the Committee on Commerce and Consumer Protection are deliberating on legislation that would impose new taxes on e-cigarettes. I write to ask the Committees to not rush to judgment on e-cigarettes and allow the federal government the appropriate time to evaluate e-cigarettes as they have indicated they would.

E-cigarettes are different than conventional cigarettes. They rely on a small battery and each contain a heating element that vaporizes a liquid which is then inhaled. E-cigarettes use tobacco-derived nicotine and they do not actually burn tobacco so it does not create smoke.

The Food and Drug Administration (FDA) has expressed its intention to regulate e-cigarettes as a tobacco product. A thorough federal framework for e-cigarettes could help address some of the complex issues that surround them. So in an environment where the FDA is best positioned to evaluate e-cigarettes, Hawaii legislators' attempt to prematurely tax e-cigarettes — could depress the number of adult consumers who may be looking for newer forms of tobacco products.

New state taxes on e-cigarettes could be counterproductive at this time. We do not yet know enough about adult consumers interest in new tobacco products like e-cigarettes. Therefore, a comprehensive federal approach to e-cigarettes is better than a patchwork of hastily applied state taxes and broad restrictions.

Thank you,

Douglas Cheuk

From: [Marques V.](#)
To: [HTHTestimony](#)
Subject: Oppose to HB 2079 & SB 2495
Date: Thursday, February 06, 2014 2:20:07 PM

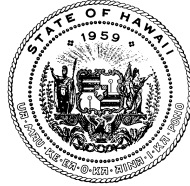
I am in opposition to HB 2079 & SB 2495,

I believe all establishments should have the "choice" to whether or not vaping or using electronic cigarettes is allowed. Some places don't mind the usage and some places do. I once asked a waiter at a restaurant if it was ok to use one, and he said "yes, those are fine". As a responsible user, I am aware that not all places allow ecigs but I like to ask first. Please don't pass this bill on ecigs that will only be allowed to use in smoking areas. Vapor is not smoke so it should not be treated the same way. Not all places especially bars mind it. In fact, that is why some bars in the US open up a vape lounge in their business because they know "smoking" isn't allowed in doors, so they discovered alternative ways for their costumers to enjoy the atmosphere without having to go outside for a smoke.

Internet sales should not be banned because some of us like to personalize our vaporizers and not all shops carry what we need. Some of us save money from buying online as oppose to going to retail shops. Not only does it save money but some people don't live near enough to a vape shop so they resort to buying online. If underage buyers are a concern, online shops already makes sure there is an age verification first before the website is entered. Parents should be responsible for what their children are doing online and there are parental control systems to help prevent them from visiting certain websites.

As for licensing, i don't find that there is a need for it because where the money would go to is not exactly an effective way show gratitude to what ecigs has done for the community. It saves lives, help ppl quit smoking and completely negate the whole second hand concern.
Thanks

Marques
Sent from my iPad



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

SENATE COMMITTEE ON HEALTH
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

SB2495, RELATING TO ELECTRONIC SMOKING DEVICES

Testimony of Gary L. Gill
Acting Director of Health

February 7, 2014
9:00 am, Room 229

1 **Department's Position:** The Department of Health (DOH) supports the intent of SB2495 which
2 addresses the regulation of electronic smoking devices (ESD), and defers to the priority of the
3 Governor's Executive Supplemental Budget for any revenue that is generated from the proposed fees.

4 **Fiscal Implications:** The Department currently does not have the capacity or financial resources to
5 implement the proposed licensing and enforcement activities.

6 **Purpose and Justification:** SB2495 proposes to amend the Hawaii Revised Statutes (HRS) to create a
7 new chapter, "Electronic Smoking Devices" which requires wholesalers, dealers, and retailers of ESDs
8 to obtain a license from the DOH; limits the retail sale of ESDs to retailers with a retail tobacco permit
9 and DOH license, and specifies that revenue from the proposed license fee be used to support smoking
10 cessation programs. The measure further amends Chapter 328J, HRS, to prohibit use of ESDs in places
11 open to the public and places of employment, and clarifies that the sale, distribution, and display of
12 ESDs is restricted in the same manner as cigarettes and other tobacco products.

13 While the DOH supports the intent of SB2495 which incorporates many facets of ESD
14 regulation, we have strong reservations on this new authority to conduct the ESD licensing and

1 enforcement due to the lack of current capacity and fiscal resources. The Department respectfully
2 requests consideration of a special fund to carry out the intended purpose of the administration of
3 licensing and enforcement and smoking cessation programs as described (Section 2, subsection 2(f),
4 page 6, lines 9 to 11). Again, this consideration is requested with deference to the priorities proposed in
5 the Executive Supplemental Budget.

6 The DOH supports the inclusion of the definitions for “smoke” and “smoking” which would
7 amend the statute to prohibit the using of ESDs in all enclosed and partially enclosed places open to the
8 public and places of employment. The DOH has conferred with the Department of the Attorney General
9 and offers revised definitions for “smoke” and “smoking,” to Section 3 (see page 8, lines 6 to 10):

10 "Smoke" or "smoking" means inhaling, exhaling, burning, or carrying any lighted or heated
11 tobacco product or plant product intended for inhalation in any manner or in any form. "Smoking"
12 includes the use of an electronic smoking device."

13 The Department also supports the provisions in Sections 4, 5 and 6 whereby electronic smoking
14 devices would be subject to the same statutory requirements for cigarettes as they relate to sale,
15 distribution, and display.

16 Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: dancw@yahoo.com
Subject: Submitted testimony for SB2495 on Feb 10, 2014 13:00PM
Date: Monday, February 10, 2014 9:11:06 AM

SB2495

Submitted on: 2/10/2014

Testimony for HTH/CPN on Feb 10, 2014 13:00PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Sherlock	Individual	Oppose	No

Comments: E-cig are the first stop smoking thing my wife has found that really works. She was a 2 pack a day cigarette user and by using the E-cig, she is down to 2 cigarettes a day. Banning the use of e-cig in public or restricting the sales or even charging taxes on them isnt fair. They are NOT cigarettes! they don't smell up the house or your clothes. The "smoke" is just water vapor and has no odor. There is NO second hand smoke, no "Injury" or discomfort to anyone near them. My wife e-smokes sometimes in the car when Im driving and I don't even notice. I know the states wants a "cut" in the profits from the sale of e-cig products and that rise in price just would push users away. You say you want to use the funds from sales of e-cigs to fund "non-smoking" campaigns/programs well, just using them is already the best program out there!

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