

Honolulu, Hawaii

APR 10 2015

RE: H.B. No. 145
H.D. 1
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred H.B. No. 145, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure as received by your Committee is to amend the tobacco tax laws.

Specifically, this measure:

- (1) Amends the definition of "tobacco products" to, among other things, remove the exceptions for cigarettes and little cigars and expressly include cigarettes;
- (2) Increases the excise tax for tobacco products, other than large cigars, sold on or after January 1, 2016; and
- (3) Deposits all excise tax revenues collected after December 31, 2015, for tobacco products, other than large cigars, into the Hawaii cancer research special fund.

Prior to the public hearing on the measure, a Proposed Senate Draft 2 (Proposed Draft) of the measure was circulated for public review and comment.



The purpose and intent of the Proposed Draft is to add a new part to the measure that increases the excise tax for large cigars sold after December 31, 2015. The Proposed Draft has an effective date of July 1, 2050.

Your Committee received testimony for both the measure as received and the Proposed Draft.

For the measure as received, your Committee received testimony in support from the Department of Health, the American Cancer Society Cancer Action Network, and one individual. Testimony in opposition to the measure was received from the Cigar Association of America, Inc.; Hawaii Smokers Alliance; Retail Merchants of Hawaii; and 257 individuals. Written comments on the measure were received from the Tax Foundation of Hawaii and five individuals.

For the Proposed Draft, your Committee received testimony in support from the University of Hawaii, Hawaii Cigar Association, Kauai Cigar Company, Cigar Rights of America, and two individuals. Testimony in opposition to the measure was received from the Department of Health; American Cancer Society Cancer Action Network; American Lung Association in Hawaii; Cigar Association of America, Inc.; IPCPR; Retail Merchants of Hawaii; VOLCANO eCigs; and 387 individuals. Written comments on the measure were received from the Department of Taxation and the Tax Foundation of Hawaii.

Your Committee finds that tobacco products other than cigarettes are presently taxed at a lower rate than the tax for cigarettes, even though they are as similarly addictive and dangerous as cigarettes. It appears that the lower tax rates make these tobacco products an attractive alternative to cigarettes for smokers. Research findings indicate that after the cigarette tax was increased in 2006, sales of cigarettes have decreased steadily, but simultaneously, smokers have been switching from cigarettes to other types of tobacco products and electronic smoking devices. Your Committee believes that the taxes imposed under this measure will create parity between the tax on cigarettes and the tax on other tobacco products.

Your Committee recognizes that the effect of depositing all revenues for the excise tax imposed upon the sale of tobacco products, other than large cigars, to the credit of the Hawaii cancer research special fund will have a corresponding reduction



in the amount of tax revenues that would otherwise be credited to the general fund. Your Committee finds that further discussion is needed on the funding mechanisms for programs such as cancer research and that this issue should to be addressed as the measure moves into conference.

Your Committee notes that the definition of "tobacco products" in both the measure as received and the Proposed Draft may be contradictory, as raised in the testimony on the Proposed Draft received from the Department of Taxation and confirmed in correspondence from the prior Committee, and may subject cigarettes and little cigars to a double taxation, specifically, the sixteen cents tax per cigarette or little cigar under the existing section 245-3(a)(11), Hawaii Revised Statutes, and the eighty per cent of the wholesale price of a tobacco product under the proposed new section 245-3(a)(13), Hawaii Revised Statutes. Your Committee believes that this issue also needs to be resolved in conference.

After careful consideration of both the measure as received by your Committee and the Proposed Draft, your Committee has amended the measure by adopting the Proposed Draft and by further amending it by:

- (1) Changing the excise tax percentage for tobacco products, other than large cigars, and both the excise tax amounts and percentages for large cigars to unspecified amounts and percentages;
- (2) Changing to an unspecified amount, the amount of the excise tax revenues for tobacco products, other than large cigars, that are deposited to the credit of the Hawaii cancer research special fund; and
- (3) Making technical nonsubstantive amendments for the purposes of clarity, style, and consistency.

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 H.B. No. 145, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 145, H.D. 1, S.D. 2.



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

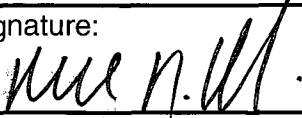


JILL N. TOKUDA, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* HB145, HD1, SD1	Committee Referral: CPN, WAM	Date: 4/9/15		
<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
TOKUDA, Jill N. (C)	✓			
KOUCHI, Ronald D. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.				✓
ENGLISH, J. Kalani				✓
GALUTERIA, Brickwood				✓
HARIMOTO, Breene		✓		
INOUYE, Lorraine R.	✓			
RIVIERE, Gil	✓			
RUDERMAN, Russell E.	✓			
SLOM, Sam				✓
TOTAL	6	1	0	4
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;">  </div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes