

STAND. COM. REP. NO. 2808

Honolulu, Hawaii

MAR 04 2016

RE: S.B. No. 2691
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 2691, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CHAPTER 245, HAWAII REVISED STATUTES,"

begs leave to report as follows:

The purpose and intent of this measure is to subject electronic smoking devices and e-liquid to tax rates and requirements that are similar to the tax rates and requirements regarding tobacco-based cigarettes and tobacco products.

Specifically, this measure:

- (1) Requires every retailer engaged in the retail sale of electronic smoking devices or e-liquid, including a retailer who sells from a vehicle, to obtain a retail tobacco permit in order to sell, possess, keep, acquire, distribute, or transport electronic smoking devices or e-liquid for retail sale;
- (2) Requires any entity that operates as a dealer or wholesaler and also sells electronic smoking devices or e-liquid to consumers at retail to acquire a separate retail tobacco permit;
- (3) Establishes the same tax requirements regarding vending machines of electronic smoking devices and e-liquid that



are established regarding tobacco-based cigarettes and tobacco products;

- (4) Subjects electronic smoking devices and e-liquid unlawfully sold, possessed, kept, stored, acquired, distributed, or transported to seizure and forfeiture;
- (5) Establishes unspecified excise taxes on disposable electronic smoking devices and e-liquid with nicotine sold by a wholesaler or dealer on or after January 1, 2017, whether or not sold at wholesale, or if not sold, then at the same rate upon the use by the wholesaler or dealer;
- (6) Requires retail tobacco permittees to track and record their inventories of electronic smoking devices and e-liquid;
- (7) Requires wholesalers and dealers of electronic smoking devices and e-liquid to keep a record of and file monthly returns and reports relating to their inventory, distributions, and costs of electronic smoking devices and e-liquid;
- (8) Subjects the foregoing records and returns and the premises of the retail sellers, dealers, and wholesalers of electronic smoking devices and e-liquid to inspection and examination by the Department of Taxation and the Attorney General;
- (9) Authorizes Department of Taxation to adopt administrative rules that provide a tobacco tax refund or credit to a licensee who has paid a tobacco tax on the distribution of electronic smoking devices or e-liquid that are shipped to a point outside the State for subsequent sale or use outside the State;
- (10) Defines "disposable electronic smoking device," "electronic smoking device," "e-liquid," and "reusable electronic smoking device" in the State's cigarette tax and tobacco tax law to facilitate the foregoing purposes; and
- (11) Amends the definitions of "dealer," "retailer," "sale," "sold," "wholesale price," and "wholesaler" in the



State's cigarette tax and tobacco tax law to facilitate the foregoing purposes.

Your Committee received written comments in support of this measure from the Department of Health; University of Hawaii Cancer Center; American Lung Association in Hawaii; Hawaii Public Health Institute; and forty-six individuals. Your Committee received written comments in opposition to this measure from Empire Vapes, LLC; Vapor Etc.; Hawaii Vapers United Association; Volcano Fine Electronic Cigarettes; Logic Technology Development, LLC; Hawaii Smokers Alliance; and forty-six individuals. The Department of Taxation submitted comments on this measure.

Your Committee finds that the use of electronic smoking devices is increasing, while the electronic smoking device industry, along with the production of e-liquid, is growing rapidly. Your Committee also finds that electronic smoking devices are not harmless alternatives to combustible tobacco products, since they contain nicotine and low levels of carcinogens. Your Committee notes that toxicologists warn that e-liquids pose significant risks to public health, particularly to children.

Your Committee further finds that taxes on disposable electronic smoking devices and e-liquid are lower than the tax rates imposed on tobacco-based cigarettes and other tobacco products. Your Committee believes that given their potential health risks, disposable electronic smoking devices should not be a lower-priced alternative to tobacco products in Hawaii. Your Committee believes that the higher prices that result from higher taxes and regulations on disposable electronic smoking devices and e-liquid will encourage cessation, prevent youth initiation, and reduce use overall. Your Committee therefore believes that this measure is a prudent vehicle to promote public health.

Your Committee notes that as this measure moves forward, subsequent committees should consider clarifying amendments proposed by the Department of Taxation to assist with the administration and implementation of this tax.

Your Committee has amended this measure by changing its effective date to July 1, 2050, to facilitate further discussion.

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. 2691, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2691, S.D. 2.

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

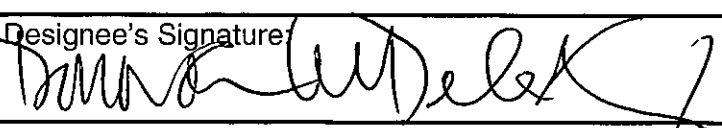


JILL N. TOKUDA, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2691, SD 1	CPH, WAM	3 / 1 / 16		
<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)	/			
DELA CRUZ, Donovan M. (VC)	/			
CHUN OAKLAND, Suzanne	/			
ENGLISH, J. Kalani	/			
GALUTERIA, Brickwood				/
HARIMOTO, Breene	/			
INOUYE, Lorraine R.			/	
RIVIERE, Gil	/			
TANIGUCHI, Brian T.	/			
WAKAI, Glenn	/			
SLOM, Sam				/
TOTAL	8		1	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes