

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

WRITTEN ONLY

**Testimony in SUPPORT of SB2689 SD1  
RELATING TO CHAPTER 245, HAWAII REVISED STATUTES**

SENATOR GILBERT S.C. KEITH-AGARAN, CHAIR  
SENATE COMMITTEE ON JUDICIARY AND LABOR

Hearing Date: February 26, 2016

Room Number: 016

1 **Fiscal Implications:** Department of Health (DOH) defers to the Department of Taxation (DoTAX) on  
2 fiscal implications.

3 **Department Testimony:** DOH supports the definitional changes to §245 HRS, which will require that  
4 wholesaler, dealers, and retailers obtain applicable licenses and permits to sell electronic smoking devices  
5 (ESDs) and e-liquid. Currently, all that is required is a General Excise License, and no specific database  
6 exists regarding the identification and location of vendors. Licensure and retail permitting would provide  
7 this important, and up-to-date data which the Department relies on to conduct merchant compliance  
8 surveys as required by the federal Synar Amendment (PL 102-321, section 1926).

9 The DOH further supports the proposed increases in licensure and permitting fees. These fees  
10 have remained unchanged since 1995, despite high tobacco taxes and ever increasing tobacco industry  
11 expenditures in marketing and advertising. Tobacco licensing is an effective tool for limiting the negative  
12 public health consequences of tobacco use, including ESDs, by ensuring that wholesalers and retailers  
13 comply with responsible sales practices.

14 The current license fee for tobacco wholesalers and dealers in Hawaii is \$2.50. An analysis of  
15 tobacco sales license requirements across the United States reveals a very broad range of fees for different  
16 statutory purposes. The amounts can vary from no fee at all to \$1,500.00/year. Of the 40 states that do  
17 have fees, 26 states charge \$100.00/year or more and 14 states charge \$200.00/year or more. 9 states  
18 charge between \$500.00/year and \$1,500.00/year. Hawaii is only one of two states that charge a  
19 wholesaler less than a retailer. DOH agrees that increasing the current license fee to \$250 a year is in line  
20 with national practices.

21 The retail tobacco permit was instituted in 2006 and DoTAX is the issuer of the annual \$20.00  
22 fee. The purpose of the fee is to cover administrative costs. Nationally, the amounts vary from no fee to  
23 \$1,000.00/year. Of the 32 states that have retailer fees, 15 states charge more than \$20.00/year but less

1 than \$100.00/year, with about half (8 out of 15) of those states charging \$50.00/year or more. DOH  
2 agrees that increasing the current tobacco permit fee to \$50 a year is in line with national practices.

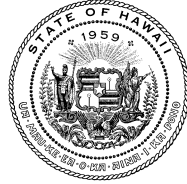
3 DOH recommends licensure and permitting fees be directed towards covering all related  
4 administrative expenses. Consideration should also be given to adequately fund merchant education,  
5 legal signage, and the enforcement of tobacco sales laws.

6 Thank you for the opportunity to testify.

7 **Offered Amendments:** None.

DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

JOSEPH K. KIM  
DEPUTY DIRECTOR

To: The Honorable Gilbert S.C. Keith-Agaran, Chair  
and Members of the Senate Committee on Judiciary and Labor

Date: February 26, 2016

Time: 10:00 A.M.

Place: Conference Room 016, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 2689, S.D. 1, Relating to Chapter 245, Hawaii Revised Statutes.

The Department of Taxation (Department) offers the following comments on S.B. 2689, S.D. 1 for your consideration.

S.B. 2689, S.D. 1 amends the Cigarette and Tobacco Tax Law by amending sections 245-1 and 245-2, Hawaii Revised Statutes (HRS), to require sellers of electronic smoking devices and e-liquid to acquire wholesaler's licenses or retail permits similarly to sellers of tobacco products. S.B. 2689, S.D. 1 also raises the annual license fee for tobacco wholesalers from \$2.50 per year to \$250 per year, and raises the annual retail licensing permit fee from \$20 per retail location to \$50 per retail location. S.B. 2689, S.D. 1 is effective January 1, 2017.

The Department notes that the definition for "disposable electronic smoking device" is added to section 245-1, HRS, but never used again in the measure and may not be necessary.

The Senate Committee on Commerce, Consumer Protection, and Health made several amendments to S.B. 2689 at the Department's suggestion. The Department appreciates the consideration of its recommendations and notes that it can administer this measure as currently drafted. The Department also notes that it appreciates the January 1, 2017 effective date as it allows the Department to update its forms and instructions during its regular forms process.

The Department defers to the Department of Health with respect to the effect requiring sellers of electronic smoking devices and e-liquid to acquire licenses or permits would have on the State's health and wellness. The Department also defers to the Department of Health with respect to what amounts constitute suitable fees for the privilege of operating in the State as a retailer or wholesaler of tobacco products, electronic smoking devices and e-liquid.

Thank you for the opportunity to provide comments.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TOBACCO, License Fees, Electronic Smoking Devices

BILL NUMBER: SB 2689, SD-1

INTRODUCED BY: Senate Committee on Commerce, Consumer Protection, and Health

EXECUTIVE SUMMARY: The measure: (1) adds and amends various definitions in chapter 245, Hawaii Revised Statutes, to ensure that dealers, retailers, and wholesalers of electronic smoking devices and e-liquid obtain the applicable license or permit; (2) increases the annual license fee for a wholesaler or dealer from \$2.50 to \$250.00; and (3) increases the annual retail tobacco permit fee from \$20 to \$50.

BRIEF SUMMARY: Amends HRS section 245-1 to add definitions of disposable electronic smoking device, electronic smoking device, e-liquid, and reusable electronic smoking device; amends definitions "dealer", "retailer", "sale" or "sold", "wholesale price", and "wholesaler" to include electronic smoking devices or e-liquid.

Amends HRS section 245-2 to increase the annual fee for a tobacco wholesaler license from \$2.50 to \$250.00.

Amends HRS section 245-2.5 to increase the annual fee for a retail tobacco permit from \$20 to \$50. Makes other conforming amendments to include sales of electronic smoking devices or e-liquid, including an amendment to subsection (o) to clarify that electronic smoking devices or e-liquid unlawfully possessed may be seized and ordered forfeited.

EFFECTIVE DATE: January 1, 2017.

STAFF COMMENTS: The proposed measure would amend the definition of "cigarette" to include "electronic smoking devices" thereby making them subject to the tobacco tax. Traditional cigarettes have been proven to be a health hazard, but electronic smoking devices have only appeared on the market in 2004. Even though such devices contain nicotine, they do not produce other hazardous substances associated with a traditional cigarette.

Given the fact that there is no tobacco being consumed with these electronic smoking devices, it is questionable why these particular products should be placed under the tobacco tax. They may be substitutes for a tobacco product, but so are other products like nicotine gum. How should these latter products be taxed, if at all? As noted many times before, if the health department believes that products such as cigarettes, chewing tobacco, and other forms of tobacco consumption are bad for the community's health, then those products should be banned altogether. Apparently, lawmakers do not want to give up the revenues they reap from the heavy taxes imposed on these products.

Digested 2/3/2016



## American Heart Association testimony in SUPPORT of SB 2689, SD1 "Relating to Chapter 245, Hawaii Revised Statutes"

The American Heart Association supports SB 2689, SD1.

With the passage last year of state legislation raising the age to purchase electronic smoking devices and other tobacco products to 21, Hawaii has become a model for the country in taking positive action to keep young people in Hawaii from falling into a trap of lifelong addiction leading to disease and early death.

However, one weakness exposed by the law is Hawaii's enforcing authorities' inability to identify who sells electronic smoking devices. SB 2689, SD1 is needed to establish a licensing requirement, similar to that which exists for wholesalers and retailers who sell other tobacco products in our state. Not only will it allow enforcing agencies to monitor for the illegal sales of those products to underage buyers, but it would also allow for enforcement of tax payment should the state eventually decide to establish a special tax on electronic smoking devices.

The AHA also encourages legislators to increase the current fee levels for licensure and permitting to sell tobacco products to provide the funds necessary to expand enforcement to non-traditional tobacco merchants who engage in the business of selling electronic smoking devices. It's important to note that Hawaii's current tobacco licensing and permitting fees are well below the average fees charged by other states, and well below the licensing fees that Hawaii charges for alcohol sales. Raising those fees would also make their potential loss due to illegal sales more of a deterrent.

Please support SB 2689, SD1 as another tool in the state's effort to control and deter tobacco use.

Respectfully submitted,

A handwritten signature in black ink that reads "Donald B. Weisman".

Donald B. Weisman  
Hawaii Government Relations Director

*"Building healthier lives,  
free of cardiovascular  
diseases and stroke."*

life is why™ es por la vida™ 全为生命™

*Please remember the American Heart Association in your will.*





Date: February 24, 2016

To: The Honorable Gilbert Keith-Agaran, Chair  
The Honorable Maile Shimabukuro, Vice Chair  
Members of the Senate Committee on Judiciary and Labor

From: Trish La Chica, Policy and Advocacy Director, Hawai'i Public Health Institute

Re: **STRONG SUPPORT for SB2689, SD1 Relating to Chapter 245, Hawaii Revised Statutes**

Hrg: February 26, 2016 at 10:00am at Conference Room 016

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Thank you for the opportunity to submit testimony in **STRONG SUPPORT** of SB 2689, SD1 which recommends the license fee for those engaged as a wholesaler or dealer of cigarettes, other tobacco products and electronic smoking devices and e-liquid be increased to \$250.00 and the permit fee for retailers engaged in the retail sale of cigarettes, other tobacco products and electronic smoking devices and e-liquid be increased to \$50.

The Coalition for a Tobacco-Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute (HIPHI) that is dedicated to reducing tobacco use through education, policy, and advocacy. With nearly two decades of history in Hawai'i, the Coalition has led several campaigns on enacting smoke-free environments, including being the first state in the nation to prohibit the sale of tobacco and electronic smoking devices to purchasers under 21 years of age.

**The Coalition supports increasing the wholesaler and dealer license fee to \$250.00.**

After state by state research on license fees for wholesalers, dealers, and distributors, the Coalition finds that of all the states that charge a wholesale and dealer license fee, Hawai'i has the lowest wholesaler and dealer license fee in the nation at \$2.50 a year.

Nationally, the amounts range from no fee to \$1,500.00 per year. Of the 38 states that have fees, Hawai'i has the lowest fee. 14 states charge \$200.00 per year or more and nine states charge between \$500.00 per year and \$1,500.00 per year. Hawai'i is the only state that charges a wholesaler less than a retailer. Comparatively, the City and County of Honolulu Liquor Commission charges \$2,640.00 annually for a Wholesale General Standard liquor license.



**The Coalition supports increasing the retail tobacco permit fee to \$50.00.**

After state by state research on permit fees for retailers, the Coalition finds that of all the states that charge a retail tobacco permit fee, Hawai`i currently has one of the lowest retailer permit fees in the nation at \$20.00.

Nationally, the amounts range from no fee to \$1,000.00 per year. Of the 32 states that charge a retailer permit fee, 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. Comparatively, the City and County of Honolulu Liquor Commission charges \$1,200.00 annually for a Retail General Standard liquor license.

**The Coalition supports requiring sellers of electronic smoking devices (ESDs) and e-liquid to obtain a tobacco permit.**

Licenses and permits help to facilitate the communication of current tobacco tax and purchase laws. Currently, there is no State database that tracks ESD and e-liquid vendors making it difficult for the Department of Health to track and communicate relevant tax and tobacco selling laws, as well as distribute proper signage that help to educate Hawai'i residents and visitors on current laws. Updating the law to include electronic smoking devices and e-liquids ensures the continued support, education, and enforcement of these laws.

Thank you for the opportunity to testify. We strongly support SB 2689, SD1 and urge you to pass this measure out of committee.

Mahalo,

A handwritten signature in black ink, appearing to read 'Trish'.

Trish La Chica  
Policy and Advocacy Director



# VOLCANO®

February 23, 2016

To: The Honorable Senator Gilbert S.C. Keith-Agaran, Chair  
The Honorable Senator Maile S.L. Shimabukuro, Vice Chair  
Members, Senate Committee on Judiciary & Labor

From: Cory Smith, VOLCANO Fine Electronic Cigarettes®  
CEO and Owner

**RE: SB2689 SD1 – oppose.**

Thank you for the opportunity to submit testimony.

VOLCANO Fine Electronic Cigarettes® is the largest manufacturer and retailer of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 11 locations statewide and employ over 70 full-time workers to support sales of our products not only here in Hawaii, but to all 50 states as well as over 30 International countries. We stand in opposition to SB2689 for the following:

- Vapor products contain NO tobacco, often times contain NO nicotine, and ultimately emit NO smoke, **SB2691 SD1 aims to unfairly classify all vapor products as “Tobacco Products” and erroneously refers to them as “Electronic Smoking Devices”** to bring vapor products into the same regulatory framework and licensing requirements as traditional tobacco cigarettes.
- SB2689 SD1 States in its justification that the use of licensing and permit fees “facilitate the enforcement of the cigarette tax and tobacco tax law”. However, seeing as though there are no current laws in place that subject vapor products to a cigarette tax or the tobacco tax law, this bill should be considered premature.
- **SB2689 SD1 would amount to a 9900% increase in licensing fees for wholesalers and a 150% increase for retail dealers. This is a highly unreasonable increase that will result in a significant financial burden. These costs would ultimately be passed on to the consumer.**
- Vapor Products are not the same as tobacco products, and thus, should not be regulated in the same fashion. Vapor products have not been demonstrated to have the same detrimental effects of combustible tobacco products and have otherwise been shown in recent studies to be as much as 95% less toxic than traditional Cigarettes. The UK has recently embraced these products as public health win and are crafting smart regulations that embrace the





# VOLCANO®

advantages these products provide to their society rather than crafting burdensome regulations that aim to limit access and protect deadly tobacco markets.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/457102/Ecigarettes\\_an\\_evidence\\_update\\_A\\_report\\_commissioned\\_by\\_Public\\_Health\\_England\\_FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf)

It is our belief that this unjustified classification and requirements are not in the best interests of the State of Hawaii. Thank you for your time and consideration. If you have any questions, please feel free to contact me directly.

Sincerely,

Cory N. Smith

CEO & Owner

VOLCANO Fine Electronic Cigarettes®

1003 Bishop Street #1260

Honolulu, HI 96813

cory@volcanoecigs.com

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 24, 2016 2:53 AM  
**To:** JDLTestimony  
**Cc:**  
**Subject:** Submitted testimony for SB2689 on Feb 26, 2016 10:00AM

**SB2689**

Submitted on: 2/24/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Devin Wolery	Hawaii Vapers United	Oppose	Yes

Comments: Vapor products contain NO tobacco, and often times contain NO nicotine, and ultimately emit NO smoke. Nonetheless, SB2689 SD1 aims to unfairly classify all vapor products as “Tobacco Products” and erroneously refers to the them as “Electronic Smoking Devices” to bring vapor products into the same regulatory framework as traditional tobacco cigarettes for the purposes of taxation. This will adversely effect the vapor industry in Hawaii resulting in unintended economic and health consequences detailed below. SB2689 SD1 States in its justification that the use of licensing and permit fees “facilitate the enforcement of the cigarette tax and tobacco tax law”. However, seeing as though there are no current laws in place that subject vapor products to a cigarette tax or the tobacco tax law, this bill should be considered premature. SB2689 SD1 would amount to a 9900% increase in licensing fees for wholesalers and a 150% increase for retail dealers. This is a highly unreasonable increase that will result in a significant financial burden. These costs would ultimately be passed on to the consumer.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 24, 2016 4:29 PM  
**To:** JDLTestimony  
**Cc:**  
**Subject:** Submitted testimony for SB2689 on Feb 26, 2016 10:00AM

**SB2689**

Submitted on: 2/24/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gerald Honma	Smokeless Hawaii	Oppose	No

Comments: \* Vapor products contain NO tobacco, often times contain NO nicotine, and ultimately emit NO smoke, SB2691 aims to unfairly classify all vapor products as “Tobacco Products” and erroneously refers to the them as “Electronic Smoking Devices” to bring vapor products into the same regulatory framework and licensing requirements as traditional tobacco cigarettes. \* — SB2689 States in its justification that the use of licensing and permit fees “facilitate the enforcement of the cigarette tax and tobacco tax law”. However, seeing as though there are no current laws in place that subject vapor products to a cigarette tax or the tobacco tax law, this bill should be considered premature. \* — SB2689 would amount to a 9900% increase in licensing fees for wholesalers and a 150% increase for retail dealers. This is a highly unreasonable increase that will result in a significant financial burden. These costs would ultimately be passed on to the consumer. \* — Vapor Products are not the same as tobacco products, and thus, should not be regulated in the same fashion. Vapor products have not been demonstrated to have the same detrimental effects of combustible tobacco products and have otherwise been shown in recent studies to be as much as 95% less toxic than traditional Cigarettes.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 25, 2016 12:06 PM  
**To:** JDCTestimony  
**Cc:**  
**Subject:** \*Submitted testimony for SB2689 on Feb 26, 2016 10:00AM\*

**SB2689**

Submitted on: 2/25/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
chaz bollig	Individual	Oppose	No

Comments:

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**Sent:** Wednesday, February 24, 2016 5:57 PM  
**To:** JDCTestimony  
**Cc:**  
**Subject:** \*Submitted testimony for SB2689 on Feb 26, 2016 10:00AM\*

**SB2689**

Submitted on: 2/24/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chris Anton	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
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**To:** JDLTestimony  
**Cc:**  
**Subject:** \*Submitted testimony for SB2689 on Feb 26, 2016 10:00AM\*

**SB2689**

Submitted on: 2/24/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chris Wells	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 25, 2016 9:13 AM  
**To:** JDLTestimony  
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**Subject:** Submitted testimony for SB2689 on Feb 26, 2016 10:00AM

**SB2689**

Submitted on: 2/25/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
P Kuromoto	Individual	Oppose	No

Comments: The classification of vapor businesses as tobacco businesses is a bad idea. Many of these businesses do not sell tobacco and have no intention of selling tobacco. However if onerous licensing and taxation is required, the sale of tobacco becomes an attractive option to recoup the increased costs. Creating more tobacco dealers does not serve the purpose of public health.

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**From:** mailinglist@capitol.hawaii.gov  
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**To:** JDLTestimony  
**Cc:**  
**Subject:** Submitted testimony for SB2689 on Feb 26, 2016 10:00AM

**SB2689**

Submitted on: 2/24/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Peter	Individual	Oppose	No

Comments: The "electronic smoking device", term should not be used, it is NOT smoking, there is no combustion, or carcinogens. It is a VAPORIZER that is a safer alternative to smoking, it works on the same principle/liquids as the "smoke machines" in haunted houses, disco clubs, and concerts. PLEASE educate yourselves (State Reps) instead of looking at this as a money making ploy for the government. Ask your family, friends, go out in the community, do your Public service, we did vote for you.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 23, 2016 4:06 PM  
**To:** JDLEstimony  
**Cc:**  
**Subject:** \*Submitted testimony for SB2689 on Feb 26, 2016 09:00AM\*

**SB2689**

Submitted on: 2/23/2016

Testimony for JDL on Feb 26, 2016 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teddy Kim	Individual	Oppose	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 23, 2016 3:23 PM  
**To:** JDLEstimony  
**Cc:**  
**Subject:** Submitted testimony for SB2689 on Feb 26, 2016 09:00AM

**SB2689**

Submitted on: 2/23/2016

Testimony for JDL on Feb 26, 2016 09:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Vin Kim	Individual	Oppose	No

Comments: Taxing a product that helps smokers quit tobacco will make it harder for people who want to quit.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 23, 2016 9:55 PM  
**To:** JDLEstimony  
**Cc:**  
**Subject:** Submitted testimony for SB2689 on Feb 26, 2016 10:00AM

**SB2689**

Submitted on: 2/23/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
william shaver	Individual	Comments Only	No

Comments: I believe that increasing prices on licensing or any taxes and such on vaping products is wrong. The only reason this is happening is because big time tobacco companies are losing lots of money to this new vaping industries. I can tell you off hand from personal experiences from myself and others I know that do vape that it is much better than any kind of cigarettes. The E-Liquids have far less chemicals in them and are way less harmful. I can vape all day long and not feel bad. If I decide to smoke just one cigarette one night the next morning I would be coughing and having difficulties breathing. In conclusion I have smoked for many years and even chewed tobacco in the military for the 6 years I was in the Army, Vaping is much more healthier and I fell better than I ever did from using other tobacco products. I hope that you take in consideration of all the lives these industries have affected in positive ways and stop going against them and instead support them.

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