

Honolulu, Hawaii

FEB 15 2017

RE: S.B. No. 404
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 404 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:

- (1) Impose an excise tax on electronic smoking devices, disposable electronic smoking devices, reusable electronic smoking devices, and e-liquid sold by a wholesaler or dealer;
- (2) Require retailers to obtain a retail tobacco permit to sell, possess, keep, acquire, distribute, or transport cigarettes, tobacco products, electronic smoking devices, or e-liquid for retail sale;
- (3) Increase the license fee for wholesalers or dealers of cigarettes, tobacco products, electronic smoking devices, and e-liquid; and
- (4) Increase the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes, tobacco products, electronic smoking devices, and e-liquid.

Your Committee received testimony in support of this measure from the Department of Health, American Heart Association, Hawai'i



Pacific Health, Hawai'i Public Health Institute, American Lung Association in Hawaii, Policy Advisory Board for Elder Affairs, Children's Action Network, University of Hawaii Student Health Advisory Council, and fifty-one individuals. Your Committee received testimony in opposition to this measure from PC Gamerz Hawaii, Cigar Rights of America, Hawaii Smoker's Alliance, Volcano Fine Electronic Cigarettes, Havana Club Honolulu, Dajuce Hawaii LLC, and forty-one individuals. Your Committee received comments on this measure from the Department of the Attorney General, Department of Taxation, University of Hawai'i System, and Tax Foundation of Hawaii.

Your Committee finds that tobacco use remains a significant problem in Hawaii and nationwide, causing approximately 1,400 deaths per year among adults in the State. Research consistently shows that tobacco products are addictive and inherently dangerous, and cause many types of cancer, heart disease, and other serious illnesses. In addition to detrimental health effects, tobacco places a heavy burden on the State's healthcare system and economy.

Your Committee finds that the electronic smoking device industry is growing quickly, and is affecting the nation's youth at an alarming rate. According to a Surgeon General's report in 2016, e-cigarette use grew 900 percent among high school students between 2011 and 2015. Nationwide, more than 3,000,000 middle and high school students used e-cigarettes as of 2015. Your Committee heard testimony that, according to the 2015 Hawaii Youth Risk Behavior Survey, 25 percent of high school students in Hawaii report being regular e-cigarette users. Your Committee notes that the Surgeon General's report also found that ingestion of e-liquids containing nicotine can cause acute toxicity and possibly death.

Your Committee further finds that the State has a substantial interest in reducing the number of individuals of all ages who use tobacco products, and an especially strong interest in protecting Hawaii's youth from tobacco dependence and the health risks associated with tobacco use. Your Committee finds that imposing an excise tax on products such as cigarettes and other tobacco products has worked over the years to deter and prevent youth and young adults from initiating tobacco use. Your Committee notes that, currently, electronic smoking devices are the only tobacco product not taxed.



Your Committee has amended this measure by:

- (1) Deleting the definitions of "disposable electronic smoking device" and "reusable electronic smoking device" and all references to those terms because disposable electronic smoking device and reusable electronic smoking device are encompassed by the definition of "electronic smoking device", which is used throughout this measure;
- (2) Amending the definition of "electronic smoking device" to:
 - (A) Specify that hookah pipes included in the definition are electronic hookah pipes;
 - (B) Establish that the definition includes components of a device or related product that are used during the operation of the device; and
 - (C) Exclude battery or battery chargers that are sold separately;
- (3) Amending the definitions of "business location" or "place of business", "license", and "retail sale" or "tobacco retailing" in the cigarette tax and tobacco tax law chapter to include electronic smoking devices and e-liquid in the products sold or distributed;
- (4) Inserting language to specify that license and permit fees collected under the cigarette tax and tobacco tax law shall be used to cover administrative expenses, merchant education, legal signage, and the enforcement of tobacco sales laws;
- (5) Inserting language to include electronic smoking devices and e-liquid in the tax limitations that currently apply to cigarettes and tobacco products in certain cases;
- (6) Inserting an effective date of January 1, 2018, to allow the Department of Taxation adequate time to make necessary changes to Department forms and instructions to implement this measure; and



- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 404, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 404, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



