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**STATE OF HAWAII
DEPARTMENT OF TAXATION**

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To: The Honorable Roy M. Takumi, Chair
and Members of the House Committee on Consumer Protection & Commerce

Date: Wednesday, February 7, 2018
Time: 2:00 P.M.
Place: Conference Room 329, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 1907, H.D. 1, Relating to Health

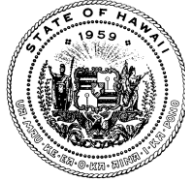
The Department of Taxation (Department) offers the following comments on H.B. 1907, H.D.1 for the Committee's consideration.

H.B. 1907, H.D. 1, makes unlawful the transport of tobacco products ordered through remote sale to any address other than that of a tobacco wholesaler, dealer or retailer. H.B. 1907, H.D. 1, also expands the tax on tobacco products to include electronic smoking devices, including cartridges and components. Under this bill, wholesalers and dealers of electronic smoking devices would be subject to a tax of 70% of the wholesale price of the devices, and wholesalers, dealers and retailers of electronic smoking devices would be required to secure licenses and retail permits annually. The bill has a defective effective date of July 1, 3000.

The Department notes that, as currently drafted, the offense of unlawful transport of tobacco under subsection (a) (page 4, lines 18-21), would not apply to anyone who ships to any person with a valid general excise tax license in Hawaii. This does not seem consistent with the intent of the measure. If the Committee wishes to more tightly control the locations to which tobacco products may be shipped in the State, it may do so by deleting this exception.

The Department is able to administer the changes in this measure, but requests that any change to the tobacco tax be made effective January 1, 2019 to allow the Department to make the necessary form and computer system changes.

Thank you for the opportunity to provide comments.



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

**Testimony in SUPPORT of H.B. 1907 HD1
RELATING TO HEALTH**

REPRESENTATIVE ROY M. TAKUMI, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Hearing Date: February 7, 2018 Room Number: 329

1 **Fiscal Implications:** The Department of Health (DOH) defers to the Department of the
2 Attorney General on the fiscal implications for enforcement.

3 **Department Testimony:** The DOH supports House Bill 1907 House Draft 1 (H.B. 1907 HD1)
4 as a measure to protect the public's health. The bill prohibits the remote sale and distribution of
5 cigarettes and tobacco products, including electronic smoking devices (ESDs) to consumers
6 except to licensed wholesalers or dealers.

7 H.B. 1907 HD1 changed the punishment to an unspecified criminal penalty and removed
8 tobacco retailers from the list of entities permitted to receive tobacco products through remote
9 sales. The DOH defers to the Department of the Attorney General (AG) regarding the
10 enforcement of the proposed measure.

11 Hawaii is among five states (including CA, OR, NJ, and ME) having the strongest age
12 laws in the country that prohibit the sales of tobacco products to any person under the age of
13 twenty-one years. Such legislation specifically addresses face-to-face transactions, and is meant
14 to prevent youth access and initiation of tobacco use. However, the acceleration of online
15 tobacco product sales has created a dangerous loophole, undermining efforts to protect public
16 health, by providing an appealing option for underage smokers. In the current unregulated online
17 market, youth easily and often circumvent the age verification process for purchasing tobacco.
18 In some transactions age verification simply requires the consumer to acknowledge that a person
19 is over the legal age to purchase by clicking the word, "agree," to advance the transaction.

1 The Internet Tobacco Vendors Study (ITV), supported by the National Cancer Institute
2 and the United States (US) Food and Drug Administration (FDA) Center for Tobacco Products,
3 has monitored the online tobacco industry for over fifteen years, to assess sales practices and
4 public health impacts. In 2016, its study found that minors were successful in buying ESDs
5 online 93% of the time despite age restrictions and another study found that ESDs were often
6 shipped from internet vendors without instructions or health warnings. Due to the easy access
7 for minors through online marketing, researchers recommend more vigorous policies to prohibit
8 sales to minors.^{1,2}

9 Unregulated online access provides a way for the purchaser and tobacco industry to avoid
10 federal and state taxes, resulting in loss of revenue and evasion of an important public health tool
11 for prevention.³ Youth are price sensitive and online purchasing options are a less expensive
12 method for acquiring tobacco products including ESDs. Hawaii has seen ESD use by youth and
13 young adults increase at an alarming rate.⁴ ESDs are now the most commonly used tobacco
14 product among youth in the nation and in Hawaii.^{5,6} The electronic cigarette industry is growing
15 rapidly, with retail and online sales of electronic smoking devices projected to reach
16 \$10,000,000,000 in 2017.^{7,8}

17 The U.S. FDA in its deeming rule enacted in August 2016, extended its authority to
18 ESDs, cigars, hookah, and pipe tobacco as tobacco products.⁹ Though the Tobacco Control Act

¹ Williams RS, Derrick J, Ribisl KM. Electronic Cigarette Sales to Minors via the Internet. *JAMA Pediatr.* 2015;169(3):e1563.
doi:10.1001/jamapediatrics.2015.63.

² Kong AY, Derrick JC, Abrantes AS, Williams RS. *What is included with your online e-cigarette order? An analysis of e-cigarette shipping, product and packaging features.* *Tobacco Control.* [Epub ahead of print] June 29, 2016. doi:10.1136/tobaccocontrol-2016-053061.

³ *The National Association for Convenience and Fuel Retailing:* <http://www.nacsonline.com/Advocacy/Issues//Tobacco/Pages/RemoteSalesofTobacco.aspx>

⁴ Hawaii State Department of Health, *2016-2020 Tobacco Use Prevention and Control in Hawaii, Five-Year Strategic Plan, p.25.*

⁵ U.S. Centers for Disease Control and Prevention (CDC), "Tobacco Use Among Middle and High School Students — United States, 2011- 2015," *Morbidity and Mortality Weekly Report (MMWR)* 65(14):361-367, April 14, 2016,
<http://www.cdc.gov/mmwr/volumes/65/wr/pdfs/mm6514a1.pdf>

⁶ Hawaii State Department of Health, *Youth Risk Behavior Survey (2015)*

⁷ Herzog B, Gerber J. *E-Cigs revolutionizing the tobacco industry, 2013.* <http://www.smallcapfinancialwire.com/wp-content/uploads/2013/11/E-Cigs-Rvolutionizing-the-Tobacco-Industry-Interactive-Model.pdf>

⁸ Craver, R. (September 15, 2013). Analyst projection: *E-cigs will overtake traditional tobacco revenue at Reynolds in 2021.* *Winston-Salem Journal.* http://www.journalnow.com/business/business_news/local/analyst-projection-e-cigs-will-overtake-traditional-tobacco-revenue-at/article_948674ca-1ca9-11e3-a0ae-0019bb30f31a.html

⁹ U.S. Food and Drug Administration. *Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products* (May 2016). <https://www.federalregister.gov/documents/2016/05/10/2016-10685/deeming-tobacco->

1 (TCA) of 2009 directs the FDA to regulate internet sales of tobacco, the FDA regulation of
2 internet tobacco sales has not moved past the Advance Notice of Proposed Rulemaking stage,
3 making it necessary for states to act to protect public health.¹⁰ The Prevent All Cigarette
4 Trafficking (PACT) Act, 2009, preserves the state authority to prohibit the direct shipment of
5 tobacco products to consumers in their borders, and eleven states have similar laws.¹¹

6 The DOH offers amendments and supports this important measure to close the access
7 loophole to protect the next generation from tobacco and nicotine addiction.

8 Thank you for the opportunity to testify.

9 **Offered Amendments:** The Department respectfully suggests striking the following in
10 subsection (2), found on page 4, lines 18 - 19 to eliminate confusion regarding an exception for
11 businesses with a general excise tax license and a brick and mortar establishment:

12 ~~18 provided that a remote sale to a person or entity with a~~
13 ~~valid~~

14 ~~19 general excise tax license from the department of taxation~~
15 ~~and a~~

16 ~~20 physical building or structure for the purpose of retail is~~
17 ~~not~~

18 ~~21 a violation of this section.~~

19
20

products-to-be-subject-to-the-federal-food-drug-and-cosmetic-act-as-amended-by-the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products (May 2016).

¹⁰ Family Smoking Prevention and Tobacco Control Act of 2009.

<http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/ucm246129.htm>

¹¹ Prevent All Cigarette Trafficking Act. Pub.L. 111-154, sec.2,§2A(e)(5)(C), 124 Stat. 1087, 1098 (codified at 15 U.S.C. §376a(e)(5)(C) [hereinafter PACT Act].



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 1907, H.D. 1, RELATING TO HEALTH.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Wednesday, February 7, 2018 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Janine R. Udoi, Deputy Attorney General

Chair Takumi and Members of the Committee:

The Department of the Attorney General ("Department") appreciates the intent of this bill and submits the following proposed amendment.

The purpose of this bill is to prohibit the shipment of certain tobacco products through the Internet or mail order to anyone other than a licensed wholesaler or dealer. In addition to reducing the public health impact of tobacco use, the bill seeks to prevent potential tax evasion and loss of revenue through the remote sale of tobacco products.

The Department recommends striking in its entirety, subsection (a)(2), on page 4, lines 15 through 17, of the new section being added by section 3 of the bill to chapter 245, Hawaii Revised Statute (HRS). This subsection seeks to prohibit providing substantial assistance to persons or entities violating this section. However, the wording "substantial assistance" could potentially be challenged as being too vague to permit an average person to be generally able to determine the type of conduct that could constitute a violation under this section.

Similarly, the Department recommends striking in its entirety, the wording of the bill on page 4, lines 18 through 21, of the new section being added by section 3 of the bill to chapter 245, HRS, which proposes an exception to the prohibitions of the bill for persons or entities with a valid general excise license and a physical building or structure for the purpose of retail. Persons or entities holding a general excise tax

license may not necessarily hold a wholesaler or dealer license under chapter 245, HRS. Accordingly, this provision could lead to confusion regarding the type of license necessary to lawfully receive a shipment of tobacco products under this section, and potentially conflict with subsection (a)(1) on page 4, lines 10 through 14, of the new section being added by section 3 of the bill to chapter 245, HRS.

The Department respectfully recommends that the above matters be considered and that the suggested changes be made in order to better promote the intent of this bill. Thank you for the opportunity to testify.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TOBACCO, Prohibits shipment of tobacco products, adds electronic smoking devices

BILL NUMBER: HB 1907, HD-1

INTRODUCED BY: House Committee on Health & Human Services

EXECUTIVE SUMMARY: Although the bill is titled the "Internet Marketing and Purchase of Cigarettes and Tobacco Products Act of 2018," it incidentally makes electronic smoking devices "tobacco products" and, as such, fully subject to the tobacco tax. That may or may not have been an intended result.

SYNOPSIS: Adds a new section to chapter 245, Hawaii Revised Statutes, to prohibit certain transport of tobacco products ordered through remote sale. The criminal classification of the offense of violating the section is unspecified.

Adds new definitions to HRS section 245-1 of "electronic smoking device," "Internet sale," "mail order," and "remote sale."

Amends the definition of "tobacco products" in HRS section 245 to include snus, which is a type of powdered tobacco, and electronic smoking devices, but excludes drugs, devices, or combination products that are approved for sale by the United States FDA.

EFFECTIVE DATE: July 1, 3000.

STAFF COMMENTS: Although the bill focuses on making certain transport of tobacco products illegal, it includes electronic smoking devices within the definition of "tobacco products." Because that definition defines the reach of the tobacco tax, this change makes electronic smoking devices subject to the tobacco tax. That change either could be unintended or misleading.

Currently tobacco products, other than cigarettes and large cigars, are taxed at 70% of the wholesale price of the product. If it is the intent of this measure to also tax e-cigarettes under the tobacco tax law, fair notice of this should be given to the affected industry. The HHS committee report, for example, does not mention anything about broadening the tax to reach e-cigarettes.

The next question that should be asked is the purpose of the tobacco tax. If the goal is to make people stop smoking by making it cost-prohibitive to smoke, then (a) it's working, as hikes in the cigarette tax have begun to exert downward pressure on collections not only locally but also nationally, but (b) it shouldn't be expected to raise revenue, because of (a). If the goal is to raise more money, then maybe some consideration should be given to lowering the tax to stoke demand. If the goal is to make people stop smoking, consider banning it.

Digested 2/5/2018



American Heart Association testimony in SUPPORT of HB 1907, HD1, "Relating to Health"

The American Heart Association **supports** HB 1907, HD1 which prohibits the remote sale and distribution of cigarettes and tobacco products, including electronic smoking devices to consumers except to licensed wholesalers.

While Federal law already prohibits the delivery and shipment of cigarettes, adding a state restriction on the direct delivery and shipment of electronic smoking devices to consumers would help to close the online sales loophole of those products and help to protect Hawaii's youth from unscrupulous marketers of those products.

Internet sales of tobacco products and e-cigarettes are a significant public health concern because they evade state taxes and significantly undermine tobacco control efforts. In Hawaii, it is currently illegal to sell tobacco products, including e-cigarettes, to those under the age of 21. Hawaii's age to 21 law plays a critical role in preventing youth initiation and addiction to tobacco products, yet internet sellers can circumvent this restriction by providing easy access to these products.

E-cigarettes are now the most popularly used tobacco product among Hawaii's youth. According to recent Department of Health data, almost half of Hawaii's youths have tried e-cigarettes, and 25 percent are now regular users. Those levels mirror youth cigarette use at its peak in Hawaii. This is concerning because e-cigarettes often contain nicotine and serve as a gateway to traditional cigarette use. Recent studies also indicate that e-cigarettes produce the same cardiovascular risks as traditional cigarettes.

The American Heart Association urges you to correct this loophole in our state's age restriction, taxation, and public health laws. It is imperative to continue to curtail tobacco use in any form, especially among our youth, if we are to control our state's healthcare costs and keep its Pre-Paid Healthcare law sustainable.

Please support HB1907, HD1.

Respectfully submitted,

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

Donald B. Weisman
Hawaii Government Relations/Communications 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.





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

House Committee on Consumer Protection and Commerce
Representative Roy Takumi, Chair
Representative Linda Ichiyama, Vice Chair

HB 1907, HD1 – RELATING TO HEALTH

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

Thank you for the opportunity to provide testimony in support of HB 1907, HD1, which prohibits the sale of tobacco products through remote means including internet and online sales.

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.

Internet sales are currently the easiest way to circumvent our state's tobacco control laws. Age verifications and tobacco taxes are difficult to enforce through remote sales, thus making those easier to avoid in online transactions. This measure would prevent this problem by prohibiting online sales.

Due to preemption issues, this measure focuses only on remote sales instead of age verification and other potential common carrier regulations. This bill follows similar provisions implemented by several other states, which authority is reserved to the states through the Prevent All Cigarette Trafficking Act of 2009 codified in 15 U.S. Code § 376a(e)(5)(C).

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



Date: February 6, 2018

To: The Honorable Roy Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
Members of the House Committee on Consumer Protection and Commerce

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

Re: **SUPPORT for HB 1907 HD1, Relating to Health**

Hrg: February 7, 2018 at 2:00pm at Conference Room 329

Thank you for the opportunity to submit testimony in **SUPPORT** of HB 1970 HD1 which prohibits the remote sale and distribution of cigarettes and tobacco products, including electronic smoking devices to consumers except to licensed wholesalers or dealers.

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 over 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.

Offered amendments:

1. Delete Page 5, lines 1 – 4:

~~1 provided that a remote sale to a person or entity with a valid
2 general excise tax license from the department of taxation and a
3 physical building or structure for the purpose of retail is not
4 a violation of this section.~~

Page 5, lines 1-4 would create a loophole that exempts those with a valid general excise tax license and a physical building or structure from this law.

This measure corrects the loophole in our minimum age selling and tax laws.

HB 1970 HD1 would require that online sellers only ship to licensed wholesalers or permit-holding retailers. Purchasers are able to order online and pick up their products at a business with a tobacco retail permit. This would enable businesses to comply with tobacco selling laws and check for ID. Licensing and permits also allow the state to maintain a database of sellers, which would enable state agencies to communicate with merchants and enforce state tobacco selling and taxation laws. Online

sellers avoid paying taxes, which results in a loss of revenue for Hawaii. Eight (8) states - Arkansas, Indiana, Idaho, Kansas, Massachusetts, Texas, Utah, and Washington - already restrict online sales of tobacco to consumers unless licensed to sell in the state. Please see appendix example of how online vape shops are complying with state online restriction laws.

Youth can easily buy e-cigarettes online even though sales to those under 21 is banned.

Hawaii's age to 21 law plays an essential role in preventing youth initiation and addiction to tobacco products yet internet sellers are able to circumvent this restriction by providing easy access to these products. According to the 2017 Youth Risk Behavior Survey, youth that have tried vaping are at an all-time high:

- High school: 42.3% (State), 49.6% (Hawaii County), 39% (Honolulu County), 45.3% (Kauai County), 50.7% (Maui County)
- Middle school: 27% (State), 35.8% (Hawaii County), 23.8% (Honolulu County), 30% (Kauai County), 32.1% (Maui County)

Age verification fails to protect youth from purchasing tobacco products online.

According to a 2015 JAMA Pediatrics reportⁱ, teens were able to buy e-cigarettes online in 94% of purchase attempts. Only 5 out the 98 purchase attempts made were rejected due to age verification. Age verification on websites simply requires the user to click on a button verifying that he/she is over 18, or to enter his/her birth date and click on a button to verify or certify this date. However, anyone can lie about his/her age or submit a false ID.

This measure protects our youth from being initiated to tobacco products.

E-cigarette companies are using the same advertising tactics that the tobacco industry used to persuade a new generation of young people to use their products. Kids are attracted to popular and local flavors and false health claims made by e-cigarette manufacturers. In addition, the industry continues to glamorize its use through radio, magazine, and online advertisements that make them appealing to young people. Ninety percent of adult smokers start by age 18,ⁱⁱ and the industry spends billions of dollars in order to gain a new generation of customers.

The U.S. Surgeon General sounded the alarm on e-cigarettes, asking states to address its use.

The U.S. Surgeon General issued an immediate call to action for all local and state government to enact policies that address the harmful impact of e-cigarettesⁱⁱⁱ. The Surgeon General has asked states and local jurisdictions to accelerate policies that would prevent access to e-cigarettes by youth as well as regulate e-cigarettes through: restrictions on marketing and sales, significant increases in taxes and price, retail licensure, and educational initiatives.

The Coalition urges the legislature to correct this loophole in our age restriction, taxation, and public health laws. By not restricting remote sales, we lose any positive effects gained through the passage of our age to 21 law.

We support HB 1970 HD1 and ask you to pass this out of committee.

Mahalo,



Trish La Chica
Policy and Advocacy Director

Appendix: Screenshot of online store informing consumers about new state restrictions -

States Restricting Online Sales

Due to recent state legislation, customers with destination addresses in Arkansas, Indiana and Utah are prohibited from online purchases of electronic cigarette and vapor products. We apologize for any inconvenience and urge residents of those states to [visit our Store Locator](#) to find an authorized V2 retailer in their area.

Signature Required Deliveries

Massachusetts and Texas have passed legislation requiring an adult signature upon delivery of online electronic cigarette orders. This means that residents of these states must now cover the additional cost imposed by shipping carriers for this service.

If you live in Massachusetts or Texas, your choice of shipping options will be limited to those that can accommodate the signature requirement. There will also be a signature service surcharge added to the cost of shipping your order. We apologize for this inconvenience and are working with our shipping partners to find a more cost-effective solution in the very near future.

ⁱ Williams, RS., et. al., "Electronic Cigarette Sales to Minors via the Internet" (2015) via <http://jamanetwork.com/journals/jamapediatrics/fullarticle/2174572>

ⁱⁱ Surgeon General. "Preventing Tobacco Use Among Youth and Young Adults." <https://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/factsheet.html>

ⁱⁱⁱ E-Cigarette Use Among Youth and Young Adults, A Report of the Surgeon General (2016) via https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Full_Report_non-508.pdf

HB-1907-HD-1

Submitted on: 2/5/2018 3:05:33 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gerald Honma	Smokeless Hawaii	Oppose	No

Comments:

- HB1907 would put Hawaii retailers at a significant disadvantage because the vapor products are already readily available online from mainland companies and widely distributed. This bill would simply transfer all the buying demand to online sales from mainland vendors since it would be impossible to control and effectually regulate at a state level. A recent study by the national academy of sciences stated: "there is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users' exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes." The findings add to the already weighty body of evidence showing vaping to be far less hazardous than smoking.
- <http://www.washingtonexaminer.com/landmark-ecigarette-report-explodes-myth-that-vaping-is-as-toxic-as-smoking/article/2646804>

Thank You,

Gerald Honma

Smokeless Hawaii

HB-1907-HD-1

Submitted on: 2/5/2018 2:53:04 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jess Lovely	Island Vapor	Oppose	No

Comments:

This bill would shut down over 90% of all the retailers in the state. Due to the high density environment here in Honolulu, a ban of this nature would have significant negative impacts on many local businesses including rent payments, GE tax production, job loss & not provide any positive public health benefit. By reducing the ability of adults to access modified risk products such as vapor products is a massive blow to the public health of the State of Hawaii. Vapor products have been proven and backed by US based studies to be 95% less toxic than combustable tobacco cigarettes.

HB-1907-HD-1

Submitted on: 2/5/2018 10:28:52 AM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeremy Roller		Oppose	No

Comments:

Ladies and Gentlemen,

I strongly urge you to vote in opposition to bill HB1907HD1. By passing this bill, you will start a black market of unregulated, untaxed tobacco products.

In regards to premium tobacco products, i.e.- handmade cigars, pipe tobacco, and OTP, they are not marketed to children and already are price prohibitive to them. Currently, individuals who mail order by catalog or Internet are subject to paying the appropriate state tax. I would venture to say that I do not know a single individual who reports and pay taxes on their Internet purchases of tobacco products. There is no enforcement of the current law, so of what consequence will there be for those who continue to order online? If you can get the "big box" online retailers to comply, that is one avenue. But there are also many smaller online retailers, individuals who will sell to hawaii residents, and mainland shops who will also sell to hawaii residents. There are simply too many ways to sidestep this law, if it is passed.

Mahalo for your consideration,

Jeremy K Roller

CRT & Manager, Tobaccos of Hawaii



February 7, 2018

RE: SUPPORT HB1907 HD1 Relating to Health

Dear Chair Takumi, Vice-Chair Ichiyama & Members of the Committee on Consumer Protection & Commerce:

In Hawaii alone, smoking causes 1400 adult deaths per year and costs \$256 million. Limiting the use of tobacco would result in the most effective way to prevent a number of chronic disease and many other adverse health consequences.

At Blue Zones Projects we are working to make Hawaii a happier, healthier place to live, work and play. We support HB1907 HD1, which will help to achieve better health for many of our residents, but especially our youth.

Although Hawaii, along with California, has the strictest laws in the nation prohibiting the sale of tobacco to individuals under the age of 21, our children are easily able to purchase cigarettes and other tobacco products via the Internet. This legislation will close that loophole by only allowing the shipment of cigarettes and OTPs to licensed retailers, where a person would then be able to pick up the product ordered online.

Hawaii continues to see a steep rise in the use of electronic smoking devices and the unregulated industry of online sales helps to further allow for means in which to easily obtain these products. There is very little oversight to ensure the age of the purchaser is 21 and in accordance with our state law. Online purchases enable individuals to circumvent paying a variety of taxes on their purchases.

We are grateful to the Committee for hearing HB1907 HD1 and hope that you will strongly consider passing this bill in order to help decrease the illegal access tobacco products and create a better, healthier Hawaii.

Sincerely,

Peggy Mierzwa

Peggy Mierzwa
Statewide Policy Lead
Blue Zones Project—Hawaii

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HB-1907-HD-1

Submitted on: 2/2/2018 8:08:11 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Johnathon Myers	Cigar Rights of America	Oppose	No

Comments:

I strongly OPPOSE prohibiting Internet sales of cigars, e-cigarette, tobacco products. There are plenty of Laws in place already in the State of Hawai'i that prevent youth from purchasing tobacco products--enforce them. There are plenty of Laws in place to tax online sales of purchased products--enforce them. The State of Hawai'i does not need to legislate adults' online purchasing. I am a staunch supporter of the #SUPPORTLOCAL movement in Hawai'i, but this proposed Bill is a clear example of Government overreach--especially on an island with limited resources/retailers.



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 7, 2018**

Re: HB 1907 HD1 Relating to Health

Good afternoon Chairman Takumi and members of the House Committee on Consumer Protection and Commerce. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) is a statewide not-for-profit trade organization is committed to support the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

The Retail Merchants of Hawaii acknowledges the importance of preventing underage sales and is a goal we all share. However, adults should not be denied the choice and convenience of buying online. We therefore strongly oppose HB 1907 HD1 Relating to Health. This bill would prohibit the online sale of electronic smoking devices and other tobacco products.

Many retailers statewide are already operating on a thin margin and face stiff competition. Retail has changed over the years in how consumers purchase products. We are seeing a surge in online sales for all types of merchandise including electronic devices, clothing, home goods and more. Local retailers are participating in online sales to remain competitive. We are seeing retailers that have not kept up with the trends of online sales who are now closing their doors.

In 2016 the Hawaii State Legislature passed a measure in which persons have to be 21 years old or older to purchase electronic devices and the liquids that it uses. In addition, the US Food & Drug Administration placed sweeping regulations on e-cigarettes and other tobacco products in the same way the FDA regulates conventional cigarettes.

By banning the sales of these type of products, small locally owned businesses will stand to be hurt and may potentially force some of these small locally owned businesses to close, leaving people out of work.

We respectfully ask that you hold this measure. Mahalo again for this opportunity to testify.



VOLCANO®

February 5, 2018

To: The Honorable Representative Roy M. Takumi, Chair
The Honorable Representative Linda Ichiyama, Vice Chair
Members, House Committee on Health & Human Services

From: Cory Smith, VOLCANO eCigs®
CEO and Owner

RE: HB 1907 HD1 – oppose.

Thank you for the opportunity to submit testimony.

VOLCANO eCigs® is the largest wholesaler and retailer of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 13 locations statewide and employ over 80 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 strong opposition to HB 1907 HD1 for the following:

- Vapor products and e-liquids contain NO tobacco, often times contain NO nicotine, and ultimately emit NO smoke when vaporized; yet **HB 1907 HD1 deceptively refers to vapor products as “Electronic Smoking Devices”** to mislead the public and creates a false perception of the nature of these products. This misclassification establishes the idea that vapor products are the same as tobacco products and thus, should be viewed, controlled, and perceived the same way as traditional tobacco products. This is a complete disregard of the fact that vapor products are fundamentally different from tobacco products in every way.
- **HB 1907 HD1 would not successfully remove vapor products from the Internet. It would simply restrict local based businesses from competing with businesses from the 49 other states who would not be subjected to this law further lowering jobs and revenues already being created in the state.**
- Age restriction technologies are already available and can be used to prevent youth access to these products. The alcohol industry has been successful with existing technologies and something as simple as age verification or signature verification through any major shipping provider could be a workable solution that has been completely overlooked in this bill
- **HB 1907 HD1** exempts traditional Nicotine Replacement Therapy (NRT) products that contain nicotine even though electronic cigarettes have been shown to be a much more effective tool for helping people quit smoking and have been demonstrated to have a similar



VOLCANO®

risk profile as NRT's.

- <http://onlinelibrary.wiley.com/doi/10.1111/add.12623/abstract>
- http://m.circ.ahajournals.org/content/130/Suppl_2/A14945.short
- In fact, the most Recent CDC report has shown e-cigarettes have supplanted all other traditional nicotine replacement therapies and are now the most commonly used product by tobacco users to quit using traditional tobacco cigarettes. Access to these products should be improved not restricted further.
 - http://www.journalnow.com/business/business_news/local/cdc-report-shows-more-smokers-try-to-quit-with-e/article_a33383f3-5300-5178-9f14-28b52884c45c.html
- Recent studies have actually shown that the substantial increase in e-cigarette use among US adult smokers was associated with a statistically significant increase in the smoking cessation rate at the population level:
 - <http://www.bmj.com/content/358/bmj.j3262>
- Internet sales provide access to vapor products for many local customers who live in remote locations. By restricting local Internet retailers, those purchases would simply be sent to mainland based suppliers or even worse, would force those people who do not have easy access to vapor products to return to smoking.
- **HB 1907 HD1 states in its justification that the bill is needed to curb youth usage. However, it fails to reference the most recent CDC report and data that shows youth use of tobacco products are at the lowest levels ever. Also, youth use of vapor products has been reported to be in decline since 2015 and recent studies have shown that the majority of youth who have reported using e-cigarettes are not using e-liquids that contain nicotine - further suggesting that youth who do use e-cigarettes are doing so to replace the use of traditional tobacco cigarettes.**
 - <https://www.cdc.gov/media/releases/2017/p0615-youth-tobacco.html>
 - <https://www.psc.isr.umich.edu/events/archive/feature-detail/1833>
- HB 1907 HD1 falsely states "The popularity of these devices is concerning, as electronic smoking devices are not safe alternatives to other tobacco products" yet several recent studies have shown vapor products to be as much as 95% less toxic than traditional Cigarettes
 - 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/news/phe-publishes-independent-expert-e-cigarettes-evidence-review>
- Furthermore, a recent study by the National Academy of Sciences, Engineering, and Medicine stated: "**there is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users' exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes.**" The findings add to the already weighty body of evidence showing vaping to be far less hazardous than smoking.
 - <http://www.washingtonexaminer.com/landmark-e-cigarette-report-explodes-myth->



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[that-vaping-is-as-toxic-as-smoking/article/2646804
http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-e-cigarettes.aspx?utm_source=Hootsuite&utm_medium=Dashboard&utm_campaign=SentviaHootsuite](http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-e-cigarettes.aspx?utm_source=Hootsuite&utm_medium=Dashboard&utm_campaign=SentviaHootsuite)

It is our view that this bill would create an unfair competitive disadvantage to local businesses and would result in the loss of countless jobs and massive revenues which are not in the best interests of the State of Hawaii or its' citizens. 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

HB-1907-HD-1

Submitted on: 2/6/2018 12:46:30 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Anderson	Black Lava Vape	Oppose	No

Comments:

HB1907 would put Hawaii retailers at a significant disadvantage because the vapor products are already readily available online from mainland companies and widely distributed. This bill would simply transfer all the buying demand to online sales from mainland vendors since it would be impossible to control and effectually regulate at a state level. A recent study by the national academy of sciences stated: "there is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users' exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes." The findings add to the already weighty body of evidence showing vaping to be far less hazardous than smoking.

All 13 employees from Black Lava Vape OPPOSE HB1907

HB-1907-HD-1

Submitted on: 2/3/2018 3:08:05 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
jason graham		Oppose	No

Comments:

Take out the part where you limit growth of small businesses trying to expand and make profit for themselves and the state

HB-1907-HD-1

Submitted on: 2/5/2018 9:51:11 AM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dory Kong		Oppose	No

Comments:

HB-1907-HD-1

Submitted on: 2/2/2018 9:10:38 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sean Chai		Oppose	No

Comments:

Banning online sales is not a feasible option. It won't work the way the state wishes. Just like banning fireworks, and making murder illegal. Banning internet sales is pointless. it won't promote local sales, it won't deter purchases. People will find a way to source what they want through other channels. You want to create more state revenue, allow a \$0.50 tax cap. No, doing that will not create more smokers, it won't be more appetizing to a local consumer. It will however allow us the consumer to support local businesses, and keep the money within the island.

Do something for once that the public wants, not what stuck up politicians who think they know better. We voted for our representation, not your personal affairs.

HB-1907-HD-1

Submitted on: 2/3/2018 3:06:57 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Medeiros		Oppose	No

Comments:

This measure infringes a citizen's right to purchase legal products from lawfully operating businesses. People in Hawaii, particularly in rural areas, have relied on mail order to obtain products not readily available from local businesses. Whether it is ordering from the Sears Roebuck catalog back in days of the Territory or ordering from the internet today, people have a right to purchase legal products via mail order. The rights of the citizen's of this state should not be sacrificed, no matter how well intentioned the action may be. This country went through this a hundred years ago during Prohibition. Good intentions can create bad laws.

Therefore, I oppose this measure.

HB-1907-HD-1

Submitted on: 2/3/2018 2:30:09 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kelli-Rose Hooser		Support	No

Comments:

Aloha,

Thank you for scheduling HB1907. This measure helps to further strengthen Hawaii's current tobacco laws limiting the sale of tobacco products including electronic smoking devices to consumers 21 years of age and older by restricting remote sale and shipment of tobacco products and ESDs.

In today's world, consumers shop more online than ever before. The ease of clicking a button on your phone makes purchasing items easy and stress free. I purchase a majority of my goods online, from clothes to baby products to food. We need to bring Hawaii's laws in to the 21st century to reflect how consumers actually shop. Creating regulations for face to face purchases but not restricting online sales creates a way around the law. Please pass HB1907.

Mahalo!

Kelli-Rose H. Simmons

HB-1907-HD-1

Submitted on: 2/3/2018 11:55:56 AM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nathan kaeo jr		Oppose	No

Comments:

HB-1907-HD-1

Submitted on: 2/3/2018 12:08:53 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
taeleipu liliu		Oppose	No

Comments:

HB-1907-HD-1

Submitted on: 2/3/2018 12:18:43 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
michael echiverri		Oppose	No

Comments:

HB-1907-HD-1

Submitted on: 2/3/2018 12:42:42 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
kameran self-gomes		Oppose	Yes

Comments:

I understand this bill but as far as a vaping products I feel that it shouldn't be treated as a tobacco product

HB-1907-HD-1

Submitted on: 2/3/2018 1:27:22 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
justin richards		Oppose	No

Comments:

HB-1907-HD-1

Submitted on: 2/6/2018 8:50:27 AM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Katie Folio		Support	No

Comments:

My name is Katie Folio and I am submitting this testimony as a private citizen in STRONG support of HB1907, which would restrict the sales of electronic smoking devices (ESDs) to licensed wholesalers and dealers. The ESD youth use statistics for Maui County are among the highest in the country, and certainly for our state. About 1 in 3 of our high school kids are current vapers now, and about 1 in 5 of our middle school kids. They are even confiscating vapes in elementary schools now. As a mother of two small children, I am very concerned about this growing trend and the long-term health implications for our kids and community. Most kids access these devices online. An online sales ban could help to reduce youth use dramatically, so PLEASE vote in favor of this restriction, and help protect my two little girls.

Mahalo nui loa,

Katie Folio

Kula, HI

HB-1907-HD-1

Submitted on: 2/6/2018 3:40:09 PM

Testimony for CPC on 2/7/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Devin Wolery		Oppose	Yes

Comments:

Thank you for the opportunity to submit testimony. We acknowledge the importance of preventing underage sales and is a goal we all share. However, adults should be not be denied the choice and convenience of buying online. We therefore strongly oppose HB 1907 Relating to Remote Sales of Cigarettes and Tobacco Products. This bill would prohibit online sale of electronic smoking devices and other tobacco products.

Currently, the FDA already has ruled to allow online sales of vapor products and includes the vendors operate with age verification software API systems to verify age. The State of Hawaii should follow suit behind the federal government regulations.

Removing the ability of adult Hawaii State Residents who are either disabled, live in remote areas, elderly or any other means of accesses vapor products would be a major risk to these consumers who are successfully using vapor products for the use to reduce their consumption of combustible tobacco. .

The Tobacco Control Act gave FDA immediate authority to regulate cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. On May 10, 2016, FDA issued a final rule extending its tobacco product authority to all tobacco products (except for accessories of newly deemed tobacco products), including electronic nicotine delivery systems (ENDS) – such as e-cigarettes and vape pens – all cigars, hookah (waterpipe) tobacco, pipe tobacco, nicotine gels, and certain dissolvables.

August 8, 2016 the FDA Deeming Regulations officially went into effect. A major part of the deeming regulations is the section on preventing youth access to “tobacco products” (including e-liquids and vaping accessories). These regulations prevent the sale to individuals under 18 years old federally in the US, prevent retailers and manufacturers from providing free samples, and prevent the sale of all “tobacco products” from being sold in vending machines.

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 advantages these products provide to their society rather

than crafting burdensome regulations that aim to limit access and protect deadly tobacco markets.

<https://www.sciencedaily.com/releases/2017/02/170207104358.htm>

Former smokers with long-term e-cigarette-only or NRT-only use may obtain roughly similar levels of nicotine compared with smokers of combustible cigarettes only, but results varied. Long-term NRT-only and ecigarette-only use, but not dual use of NRTs or e-cigarettes with combustible cigarettes, is associated with substantially reduced levels of measured carcinogens and toxins relative to smoking only combustible cigarettes.

<http://annals.org/aim/article/2599869/nicotine-carcinogen-toxin-exposure-long-term-ecigarette-nicotine-replacement>

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.



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

LATE

**Testimony in SUPPORT of H.B. 1907 HD1
RELATING TO HEALTH**

REPRESENTATIVE ROY M. TAKUMI, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Hearing Date: February 7, 2018 Room Number: 329

1 **Fiscal Implications:** The Department of Health (DOH) defers to the Department of the
2 Attorney General on the fiscal implications for enforcement.

3 **Department Testimony:** The DOH supports House Bill 1907 House Draft 1 (H.B. 1907 HD1)
4 as a measure to protect the public's health. The bill prohibits the remote sale and distribution of
5 cigarettes and tobacco products, including electronic smoking devices (ESDs) to consumers
6 except to licensed wholesalers or dealers.

7 H.B. 1907 HD1 changed the punishment to an unspecified criminal penalty and removed
8 tobacco retailers from the list of entities permitted to receive tobacco products through remote
9 sales. The DOH defers to the Department of the Attorney General (AG) regarding the
10 enforcement of the proposed measure.

11 Hawaii is among five states (including CA, OR, NJ, and ME) having the strongest age
12 laws in the country that prohibit the sales of tobacco products to any person under the age of
13 twenty-one years. Such legislation specifically addresses face-to-face transactions, and is meant
14 to prevent youth access and initiation of tobacco use. However, the acceleration of online
15 tobacco product sales has created a dangerous loophole, undermining efforts to protect public
16 health, by providing an appealing option for underage smokers. In the current unregulated online
17 market, youth easily and often circumvent the age verification process for purchasing tobacco.
18 In some transactions age verification simply requires the consumer to acknowledge that a person
19 is over the legal age to purchase by clicking the word, "agree," to advance the transaction.

1 The Internet Tobacco Vendors Study (ITV), supported by the National Cancer Institute
2 and the United States (US) Food and Drug Administration (FDA) Center for Tobacco Products,
3 has monitored the online tobacco industry for over fifteen years, to assess sales practices and
4 public health impacts. In 2016, its study found that minors were successful in buying ESDs
5 online 93% of the time despite age restrictions and another study found that ESDs were often
6 shipped from internet vendors without instructions or health warnings. Due to the easy access
7 for minors through online marketing, researchers recommend more vigorous policies to prohibit
8 sales to minors.^{1,2}

9 Unregulated online access provides a way for the purchaser and tobacco industry to avoid
10 federal and state taxes, resulting in loss of revenue and evasion of an important public health tool
11 for prevention.³ Youth are price sensitive and online purchasing options are a less expensive
12 method for acquiring tobacco products including ESDs. Hawaii has seen ESD use by youth and
13 young adults increase at an alarming rate.⁴ ESDs are now the most commonly used tobacco
14 product among youth in the nation and in Hawaii.^{5,6} The electronic cigarette industry is growing
15 rapidly, with retail and online sales of electronic smoking devices projected to reach
16 \$10,000,000,000 in 2017.^{7,8}

17 The U.S. FDA in its deeming rule enacted in August 2016, extended its authority to
18 ESDs, cigars, hookah, and pipe tobacco as tobacco products.⁹ Though the Tobacco Control Act

¹ Williams RS, Derrick J, Ribisl KM. Electronic Cigarette Sales to Minors via the Internet. *JAMA Pediatr.* 2015;169(3):e1563. doi:10.1001/jamapediatrics.2015.63.

² Kong AY, Derrick JC, Abrantes AS, Williams RS. What is included with your online e-cigarette order? An analysis of e-cigarette shipping, product and packaging features. *Tobacco Control.* [Epub ahead of print] June 29, 2016. doi:10.1136/tobaccocontrol-2016-053061.

³ The National Association for Convenience and Fuel Retailing: <http://www.nacsonline.com/Advocacy/Issues//Tobacco/Pages/RemoteSalesofTobacco.aspx>

⁴ Hawaii State Department of Health, 2016-2020 Tobacco Use Prevention and Control in Hawaii, Five-Year Strategic Plan, p.25.

⁵ U.S. Centers for Disease Control and Prevention (CDC), "Tobacco Use Among Middle and High School Students — United States, 2011- 2015," *Morbidity and Mortality Weekly Report (MMWR)* 65(14):361-367, April 14, 2016, <http://www.cdc.gov/mmwr/volumes/65/wr/pdfs/mm6514a1.pdf>

⁶ Hawaii State Department of Health, *Youth Risk Behavior Survey (2015)*

⁷ Herzog B, Gerber J. *E-Cigs revolutionizing the tobacco industry, 2013.* <http://www.smallcapfinancialwire.com/wp-content/uploads/2013/11/E-Cigs-Revolutionizing-the-Tobacco-Industry-Interactive-Model.pdf>

⁸ Craver, R. (September 15, 2013). Analyst projection: E-cigs will overtake traditional tobacco revenue at Reynolds in 2021. *Winston-Salem Journal.* http://www.journalnow.com/business/business_news/local/analyst-projection-e-cigs-will-overtake-traditional-tobacco-revenue-at/article_948674ca-1ca9-11e3-a0ae-0019bb30f31a.html

⁹ U.S. Food and Drug Administration. *Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products* (May 2016). <https://www.federalregister.gov/documents/2016/05/10/2016-10685/deeming-tobacco->

1 (TCA) of 2009 directs the FDA to regulate internet sales of tobacco, the FDA regulation of
2 internet tobacco sales has not moved past the Advance Notice of Proposed Rulemaking stage,
3 making it necessary for states to act to protect public health.¹⁰ The Prevent All Cigarette
4 Trafficking (PACT) Act, 2009, preserves the state authority to prohibit the direct shipment of
5 tobacco products to consumers in their borders, and eleven states have similar laws.¹¹

6 The DOH offers amendments and supports this important measure to close the access
7 loophole to protect the next generation from tobacco and nicotine addiction.

8 Thank you for the opportunity to testify.

9 **Offered Amendments:** The Department respectfully suggests striking the following in
10 subsection (2), found on page 4, lines 18 - 19 to eliminate confusion regarding an exception for
11 businesses with a general excise tax license and a brick and mortar establishment:

12 ~~18 provided that a remote sale to a person or entity with a~~
13 ~~valid~~
14 ~~19 general excise tax license from the department of taxation~~
15 ~~and a~~
16 ~~20 physical building or structure for the purpose of retail is~~
17 ~~not~~
18 ~~21 a violation of this section.~~

19
20

products-to-be-subject-to-the-federal-food-drug-and-cosmetic-act-as-amended-by-the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products (May 2016).

¹⁰ Family Smoking Prevention and Tobacco Control Act of 2009.

<http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/ucm246129.htm>

¹¹ Prevent All Cigarette Trafficking Act. Pub.L. 111-154, sec.2,§2A(e)(5)(C), 124 Stat. 1087, 1098 (codified at 15 U.S.C. §376a(e)(5)(C) [hereinafter PACT Act].

Wednesday, February 7th, 2018 at 2:00PM

Conference Room 329

House Committee on Consumer Protection & Commerce

To: Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair

From: Michael Robinson
Vice President & Government Relations

Re: Testimony in Support of HB 1907 HD 1, Relating to Health

My name is Michael Robinson, Vice President and Government Relations at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system with over 70 locations statewide including medical centers, clinics, physicians and other caregivers serving Hawai'i and the Pacific Region with high quality, compassionate care. Its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox – specialize in innovative programs in women's health, pediatric care, cardiovascular services, cancer care, bone and joint services and more. Hawai'i Pacific Health is recognized nationally for its excellence in patient care and the use of electronic health records to improve quality and patient safety.

I write in support of HB 1907 HD 1 which prohibits the remote sale and shipment of tobacco products, including electronic smoking devices (ESDs), to consumers except to licensed wholesalers and permit-holding retailers. This measure also imposes criminal liability for a violation.

This measure will help to ensure that any consumer who wishes to purchase tobacco products must first present valid identification to verify that they are of appropriate age. Electronic smoking devices (ESDs) have surpassed cigarettes in popularity amongst teens. Ordering ESDs and associated products online is one easy way for underage consumers to circumvent our State's age-based regulation of tobacco. Prohibiting the remote sale and shipment of cigarettes, tobacco products, and ESDs, will improve the enforceability of our Tobacco age laws and ultimately help fewer teens to form dependence on tobacco and electronic smoking products.

Imposing a criminal liability for violation of these statutes will further improve enforceability of our State's age limit for tobacco consumption.

Thank you for your consideration of this testimony in support of HB 1907 HD 1.