

LATE

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

**Testimony COMMENTING on S.B. 2304, SD2
RELATING TO TOBACCO**

REPRESENTATIVE JOHN M. MIZUNO, CHAIR
HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing Date: March 14, 2018

Room Number: 329

1 **Fiscal Implications:** The Department of Health (DOH) defers to the Office of the Attorney
2 General (AG) on enforcement, and the Department of Taxation (DOTAX) on the implementation
3 of licensing and permitting sections of the proposed measure.

4 **Department Testimony:** The DOH offers comments on Senate Bill 2304, Senate Draft 2 (S.B.
5 2304, SD2) as a measure to protect youth by reducing the use, access, and exposure to tobacco
6 products. The DOH defers to the AG on the legality and enforceability of the amendments
7 proposed to §328J, Hawaii Revised Statutes (HRS), and to the DOTAX for implementation of
8 tobacco licensing, and permitting amendments to §245-2.5, HRS.

9 The DOH finds support in public health literature for creating “tobacco-free buffer
10 zones” around schools and parks as a regulatory strategy to reduce youth initiation to tobacco
11 products like traditional cigarettes and e-cigarettes, also known as electronic smoking devices
12 (ESDs). According to studies published by the American Journal of Public Health,
13 “experimental smoking among high school-aged minors increases when tobacco retailers are
14 closer to schools and densely populate those locations.”¹ The Institute of Medicine also suggests
15 that restricting tobacco retail outlets near schools will impact youth tobacco use through limiting
16 sales and reduced access.² This is supported by additional tobacco outlet studies that

¹ McCarthy, W. J., Mistry, R., Lu, Y., Patel, M., Zheng, H., & Dietsch, B. (2009). Density of Tobacco Retailers Near Schools: Effects on Tobacco Use Among Students. *American Journal of Public Health, 99*(11), 2006–2013.
<http://doi.org/10.2105/AJPH.2008.145128>

² Bonnie RJ, Stratton K, Wallace RB, Ending the Tobacco Problem: A Blueprint for the Nation. Washington, DC: National Academy Press: 2007

1 confirm that “proximity to schools is significant because smoking patterns are almost exclusively
2 developed during the adolescent and teen years. Availability, accessibility, and the perception
3 that smoking is normal are all associated with higher youth smoking rates.”³

4 The licensing strategy for creating tobacco-free buffer zones around schools and
5 playgrounds by prohibiting tobacco retail outlets in these specific areas has the support of the
6 public health community, including the Centers for Disease Control and Prevention. Researchers
7 from the University of Buffalo and Roswell Park Cancer Institute found tobacco outlets were
8 concentrated around elementary and secondary schools, and more densely concentrated in lower-
9 income areas. They observed that the environmental impact of these outlets may be intensifying
10 the tobacco-use disparities between socio-economic groups.⁴

11 California, New York, and numerous other localities have implemented tobacco retailer
12 zones, ranging from three hundred to one thousand feet, where sales of tobacco products and
13 permits for tobacco retailers are prohibited near schools, parks, and other areas frequented by
14 youth. Comparable laws have been established that prohibit the sale of alcoholic beverages
15 within certain distances of schools and playgrounds. Youth and alcohol research has shown that
16 there is a positive association between outlet density and excessive alcohol consumption.⁵ The
17 concept of S.B. 2304, SD2 addresses the social determinants of health, that a person’s zip code is
18 a better predictor than the genetic code to predict life expectancy.⁶

19 Thank you for the opportunity to testify.

³ Andrea Licht Et Al., Tobacco Retail Outlet Density by Proximity to Schools and Low-Income Areas in Two Cities In Western New York (2011) (Finding that tobacco retail outlets were more concentrated around schools and more likely to be frequented by youth and other disadvantaged populations.) University at Buffalo. (2011, February 22). Study shows tobacco retail proximity to schools. *ScienceDaily*. Retrieved February 1, 2018 from www.sciencedaily.com/releases/2011/02/110222122727.htm

⁴ University at Buffalo. (2011, February 22). Study shows tobacco retail proximity to schools. *ScienceDaily*. Retrieved February 1, 2018 from www.sciencedaily.com/releases/2011/02/110222122727.htm

⁵ See Centers Of Disease Control And Prevention, Guide To Community Preventive Services, Evidence-Based Strategies To Prevent Excessive Alcohol Consumption And Related Harms, available at www.thecommunityguide.org/content/regulating-alcohol-outlet-density-prevents-excessive-alcohol-use retrieved 2/5/2018

⁶ “Defeating The ZIP Code Health Paradigm: Data, Technology, And Collaboration Are Key, ” Health Affairs Blog, August 6, 2015. DOI: 10.1377/hblog20150806.049730

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF TAXATION**

830 PUNCHBOWL STREET, ROOM 221

HONOLULU, HAWAII 96813

<http://tax.hawaii.gov/>

Phone: (808) 587-1540 / Fax: (808) 587-1560

Email: Tax.Directors.Office@hawaii.gov

To: The Honorable John M. Mizuno, Chair
and Members of the House Committee on Health & Human Services

Date: Wednesday, March 14, 2018
Time: 8:40 A.M.
Place: Conference Room 329, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 2304, S.D. 2, Relating to Tobacco

The Department of Taxation (Department) offers the following comments on S.B. 2304, S.D. 2, for the Committee's consideration.

S.B. 2304, S.D. 2, makes it unlawful to sell tobacco products or electronic smoking devices within 500 feet of a school or certain playgrounds. S.B. 2304, S.D. 2, further provides that the Department shall not issue retail tobacco permits for locations within 500 feet of such locations. The bill has a defective effective date of July 1, 2050.

The Department first notes that determining whether a location is within 500 feet of a school or playground is a labor-intensive process that requires personnel with surveying or other skills necessary to accurately make such a geographical determination. In order to place the responsibility of making this determination on the applicant, the Department respectfully requests Section 3 of the bill be amended to read as follows:

SECTION 3. Section 245-2.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The retail tobacco permit shall be issued by the department upon application by the retailer in the form and manner prescribed by the department, and the payment of a fee of \$20[-]; provided that the place of business for which the permit is sought shall not be within five hundred feet of a public or private preschool; a public or private elementary, intermediate, or high school; or public playground utilized extensively by minors. Permits shall be valid for one year, from December 1 to November 30, and renewable annually[-]; provided that a permit issued for a place of business that is located within five hundred feet of a public or private preschool; a public or

private elementary, intermediate, or high school; or public playground utilized extensively by minors shall be void, such that the permit shall be valid beyond November 30, 2019.

Whenever a retail tobacco permit is defaced, destroyed, or lost, or the permittee relocates the permittee's business, the department may issue a duplicate retail tobacco permit to the permittee for a fee of \$5 per copy. The distance of five hundred feet shall be measured from the boundary of the preschool, school, or public playground to the boundary of the place of business's premises. Public or private beaches, and public or private day care centers located in or adjacent to commercial areas shall not be deemed schools or public playgrounds for purposes of this subsection. Vocational or licensing schools, or other schools attended primarily by adults, shall not be considered schools for the purposes of this subsection."

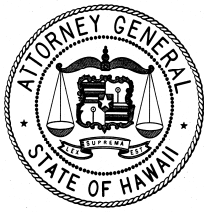
To further ensure retail tobacco permit applicants perform their own due diligence in determining that their retail locations are outside the buffer zones contained in this measure, the Department recommends that section 245-2.6(a), Hawaii Revised Statutes, be amended to read as follows:

(a) Beginning March 1, 2007, a person or entity required to obtain a retail tobacco permit commits the offense of unlawful tobacco retailing in the first degree if the person or entity knowingly fails to obtain a valid permit required under section 245-2.5 and, for the purposes of retail sale, recklessly sells, possesses, stores, acquires, distributes, or transports five thousand or more cigarettes[-] or any tobacco products. For purposes of this section, a person or entity whose retail permit is void under section 245-2.5(c) shall be deemed to have knowingly failed to obtain a valid permit.

A similar amendment to section 245-2.7(a) could be made as follows:

(a) Beginning March 1, 2007, a person or entity required to obtain a retail tobacco permit commits the offense of unlawful tobacco retailing in the second degree if the person or entity recklessly fails to obtain a valid permit required under section 245-2.5 and, for the purposes of retail sale, recklessly sells, possesses, stores, acquires, distributes, or transports fewer than five thousand cigarettes or any tobacco products. For purposes of this section, a person or entity whose retail permit is void under section 245-2.5(c) shall be deemed to have recklessly failed to obtain a valid permit.

Thank you for the opportunity to provide comments.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2304, S.D. 2, RELATING TO TOBACCO.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

DATE: Wednesday, March 14, 2018 **TIME:** 8:40 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General,
Richard W. Stacey or Earl R. Hoke, Deputy Attorneys General

Chair Mizuno and Members of the Committee:

The Department of the Attorney General ("Department") appreciates the intent of this bill and provides the following comments.

The purpose of this bill is to reduce youth use, access, and exposure to tobacco products by prohibiting the issuance and renewal of retail permits for, and sale of, a tobacco product or an electronic smoking device at a place of business within five hundred feet of preschools, schools, and public playgrounds utilized extensively by minors.

As a threshold matter, Hawaii's current law generally prohibits the sale of any tobacco product to anyone less than twenty-one years of age regardless of the geographic location of the sale. Section 712-1258, Hawaii Revised Statutes (HRS), makes it unlawful to sell or furnish a tobacco product in any form including electronic smoking devices to a person less than twenty-one years of age. This law, in conjunction with section 245-2.5, HRS, which mandates retail permitting, allows properly permitted businesses to engage in the sale of tobacco products to consumers, over the age of twenty-one, who have the legal right to be able to purchase tobacco products that are legal commodities in the generalized stream of commerce. With regard to possession or consumption of tobacco by youth, section 321-212, HRS,

prohibits the possession or consumption of a tobacco product including electronic smoking devices by a person less than twenty-one years of age in any public place.

With regard to the permitting issue, a number of businesses have had retail tobacco permits since the inception of the program in 2006. Accordingly, implementation of such a permitting restriction may give rise to a constitutional challenge under the Fifth Amendment of the United States Constitution. Under the Fifth Amendment, private property shall not be taken for public use without just compensation. While this provision has traditionally been applied to the physical taking of property, courts have extended this constitutional protection to regulatory takings as well. To determine whether a regulatory taking has occurred, the courts consider (1) the character of the government action; (2) the economic impact of the regulatory action on the property owner; and (3) the extent to which the action interferes with the property owner's reasonable "investment-backed expectations". This would normally occur when a regulation prohibits a use that was previously permitted.

Given that gas stations, convenience stores, and other retailers that sell tobacco products may derive substantial profits from the sale of tobacco products, blanket restrictions to existing permit holders may well lead to such challenges. The State of Hawaii will be prepared to defend against any such challenges. As mentioned in our previous testimony, possible remedies include grandfathering in existing permit holders such that the existing businesses would be allowed to continue subject to the generalized restrictions against the sale of tobacco to anyone under twenty-one years of age. Stand. Com. Rep. No. 2203 discussed grandfathering in existing permits. Senate Draft 1, however, provided only for delayed implementation of the tobacco prohibition. There is no language allowing for the grandfathering in of existing permits, either in this bill or the prior version.

We would note that retail permits are subject to being suspended, declined, or revoked under Hawaii Administrative Rules section 18-245-2.5-4, which provides:

Good cause to suspend, revoke, or decline to renew a retail tobacco permit. (a) In addition to any other acts or conditions provided by law, the department may suspend or, after hearing, revoke or decline to renew any retail tobacco permit whenever the department finds that the applicant or

permittee has failed to comply with chapter 245 or any rule adopted under chapter 245, or for any other good cause. Good cause includes:

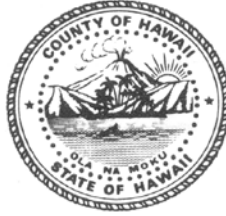
. . .

- (6) Instances of noncompliance, violation, or conviction of any law directly pertaining to the sale, importation, acquisition, possession, stamping, distribution, transportation, or smuggling of cigarettes, counterfeit cigarettes, counterfeit tax stamps, or other tobacco products in violation of county, state, or federal law . . .

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

MITCHELL D. ROTH
PROSECUTING ATTORNEY

DALE A. ROSS
FIRST DEPUTY
PROSECUTING ATTORNEY



655 KĪLAUEA AVENUE
HILO, HAWAII 96720
PH: (808) 961-0466
FAX: (808) 961-8908
(808) 934-3403
(808) 934-3503

WEST HAWAII UNIT
81-980 HALEKĪ ST, SUITE 150
KEALAKEKUA, HAWAII 96750
PH: (808) 322-2552
FAX: (808) 322-6584

OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL 2304 SD2

A BILL RELATING TO TOBACCO

COMMITTEE ON HEALTH & HUMAN SERVICES

Representative John M. Mizuno, Chair

Representative Bertrand Kobayashi, Vice Chair

Wednesday, March 14, 2018 at 8:40 a.m.

State Capitol, Conference Room 329

Honorable Chair Mizuno, Vice-Chair Kobayashi and Members of the Committee on Health & Human Services. The Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in strong support of Senate Bill No. 2304 SD2.

This important measure prohibits the issuance and renewal beyond 11/30/2019, of retail tobacco permits for businesses that are located within 500 feet of a preschool, school, or certain public playgrounds. Beginning on 12/1/2019, prohibits the sale of tobacco products and electronic smoking devices by businesses that are located within 500 feet of a preschool, school, or certain public playgrounds.

Laws that address the zoning and licensing of tobacco products are effective strategies that can reduce the density of tobacco retailers and access to tobacco products. Areas saturated with tobacco retailers are overwhelming in presence, and gives residents and keiki in that community the impression that tobacco and electronic smoking devices are available, accessible, and acceptable.

Restricting the sale of tobacco products and electronic smoking devices near schools, public parks, and public housing matters because the tobacco industry invests millions of marketing dollars targeting minority populations, youth, and low-income communities. Tobacco store windows and doors are often plastered with colorful, bold ads, and low pricing deals in large fonts. Whether you are keiki walking to school or playground, daily exposure to these promotions suggest that smoking or vaping is acceptable. SB 2304 SD2 is a policy solution that can protect our communities from being disproportionately targeted by tobacco, reduce tobacco-related health disparities, and encourages responsible tobacco retailing.

The Office of the Prosecuting Attorney, County of Hawai'i strongly supports the passage of Senate Bill No. 2304 SD2. Thank you for the opportunity to testify on this matter.



American Heart Association testimony in support of SB 2304, SD2 “Related to Tobacco”

The American Heart Association supports SB 2304, SD2.

While tobacco use has decreased significantly in Hawaii over the last decade, broad disparities continue to exist among low income and low education communities, and electronic smoking device use among Hawaii’s youths have exploded to rates comparable to the highest use levels once registered among youths using cigarettes.

The tobacco industry spends an estimated \$25.5 million each year marketing its products in Hawaii. Hawaii’s \$5.3 million investment in tobacco prevention, control and cessation programs pale in comparison, and fall well short of the Centers for Disease Control’s (CDC) best practice recommendation of a \$13.7 million annual investment. The industry has begun to invest heavily in marketing ESDs as cigarette usage has declined.

SB 2304, SD2 would help to restrict industry marketing to Hawaii’s most vulnerable population groups, including youths, and the lower socioeconomic population which currently are those most highly targeted by industry marketing.

The American Heart Association urges legislators to support SB 2304, SD2.

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.



SB-2304-SD-2

Submitted on: 3/12/2018 5:24:20 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|-----------------------|---------------------------|---------------------------|
| Valerie Chang | Hawaii COPD Coalition | Support | Yes |

Comments:

I am writing in strong support of SB2304 SD2 which would reduce the use, access, and exposure of tobacco products to youth by prohibiting the issuance of retail tobacco permits and sale of a tobacco product or an electronic smoking device within 500 feet of preschools, public and private K-12 schools and public playgrounds used by youth.

My name is Valerie Chang. I am Executive Director of the Hawaii COPD Coalition. Our organization provides services and support to Hawaii's people affected by Chronic Obstructive Pulmonary Disease, more commonly known as emphysema and chronic bronchitis. COPD is now the third leading cause of death in the US and second leading cause of disability. Over 46,015 people in Hawaii have already been diagnosed with COPD and it is estimated that at least 46,015 more people may suffer from COPD but remain undiagnosed. Many of these COPD patients were seduced by tobacco when they were very young and unable to quit the addiction for decades, causing irreparable harm. There are over \$55.9 million in COPD hospital charges in Hawaii each year.

Tobacco licensing and zoning laws are effective strategies that impact the density of tobacco retailers, access to tobacco products and location of tobacco retailers. When more tobacco retailers are located in a given area, their overwhelming presence and marketing gives residents and youth in that community the impression that tobacco and electronic smoking devices are available, accessible, and acceptable.

Restricting the sale of tobacco products and electronic smoking devices near schools and playgrounds matter because minority populations, youth, and low-income communities are already disproportionately affected by tobacco. When tobacco store proximity and presence is strong in the community, it perpetuates social norms about tobacco use. Whether you are keiki walking to school or playground, daily exposure to these promotions suggest that smoking or vaping is acceptable.

I strongly support changing our tobacco zoning restrictions to create an area between schools and tobacco stores where our youth will be protected from onslaught of advertising and retail availability of tobacco and e-cigarette products.

SB2304 SD2 is a policy solution that can protect our communities from being disproportionately targeted by tobacco, reduce tobacco-related health disparities, and encourages responsible tobacco retailing.



Date: March 12, 2018

To: The Honorable John Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair
Members of the Senate Committee on Ways and Means

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

Re: **STRONG SUPPORT for SB 2304 SD2, Relating to Tobacco**

Hrg: March 14, 2018 at 8:40am at Capitol Room 329

Thank you for the opportunity to submit testimony in **STRONG SUPPORT** of SB 2304 SD2, which would create a tobacco-free buffer zone by prohibiting the issuance and renewal of retail permits and prohibit the renewal of existing permits within 500 feet of preschools, schools, or public playgrounds frequented by youth.

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 more than 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 notes that this measure is drafted similar to existing HRS buffer zones passed into law:

HRS §281-39.5 Liquor license prohibited; where. (a) The liquor commission or agency of each county may deny or restrict the issuance of a liquor license for on-site sale and consumption by the drink to any applicant whose establishment is or would be located within five hundred feet of a public or private elementary, intermediate, or high school, or public playground utilized extensively by minors, as determined by the liquor commission of each county;

HRS §329D-22 Medical cannabis zoning. (a) Medical cannabis production centers and dispensaries shall comply with all county zoning ordinances, rules, or regulations; provided that:

(1) A medical cannabis production center shall be permitted in any area in which agricultural production is permitted except as provided within this chapter; and

(2) No medical cannabis production center or dispensary shall be permitted within seven hundred fifty feet of the real property comprising a playground, public housing project or complex, or school.

There are more tobacco retailers near schools in low income areas than in other areas

In a community assessment done by the Coalition, more than 246 ESD retailers or vape shops on the island of Oahu alone (see attached map below). Key findings include that:

- In zip codes where the average household income was \$103,518ⁱ, there were 15 total ESD retailers.
- In zip codes where the average household income was \$57,070ⁱⁱ, there were 70 total ESD retailers.

Proximity of ESD retailers show that many stores are within walking distance from schools:

- Farrington High School - 400 feet from E-Cig City
- Washington Middle School - 360 feet from Pipe Dreams
- Kuhio Elementary School - 470 feet from Choke Smoke Shop
- Central Middle School - 675 feet from Vapor Tokers
- Pearl City Elementary School - 240 feet 808 Smokes
- Ho'ala School – 328 feet from Vapor HI (see screenshot)

A high density of tobacco retailers near schools suggest that smoking and vaping is okay

Studies have shown that a high density of tobacco retailers near schools makes it easier for youth to access tobacco products and is associated with a higher prevalence of youth smoking ratesⁱⁱⁱ. In addition, the daily exposure to tobacco stores and the presence of tobacco retailers give the impression that tobacco and vaping is available and accessible. E-cigarette companies have aggressively marketed their products by glamorizing their use, using celebrities and young adults as endorsers, and making false health claims. E-cigarettes are still tobacco products. The e-cigarette industry is expected to be worth \$34 billion by 2021^{iv}, and Big Tobacco companies are estimated to spend \$25.5 million dollars annually on advertising in Hawaii^v.

Prohibiting tobacco retailers from locating near schools and other youth-oriented areas is an effective policy strategy to reduce tobacco retailer density. In a public poll^{vi} conducted by Ward Research Inc. for the Coalition in November 2017, **85% of registered Hawai'i voters were in support of prohibiting the sale of tobacco products within a certain distance from schools or playgrounds.**

Several cities in California and New York have enacted similar legislation to encourage responsible tobacco retailing, reduce tobacco-related health disparities, and reduce youth tobacco use.

Tobacco use and vaping continues to take toll on Hawaii's residents and keiki

Tobacco use disproportionately affects marginalized populations—people in low-income communities, racial and ethnic minorities, and LGBT individuals all have a long and documented history of being targeted by the tobacco industry. Tobacco companies are fully aware that low-income communities smoke in much higher numbers than the rest of the country and have the least information about the health hazards of smoking and vaping, the fewest resources and social supports, and often the least access to services that help them quit.

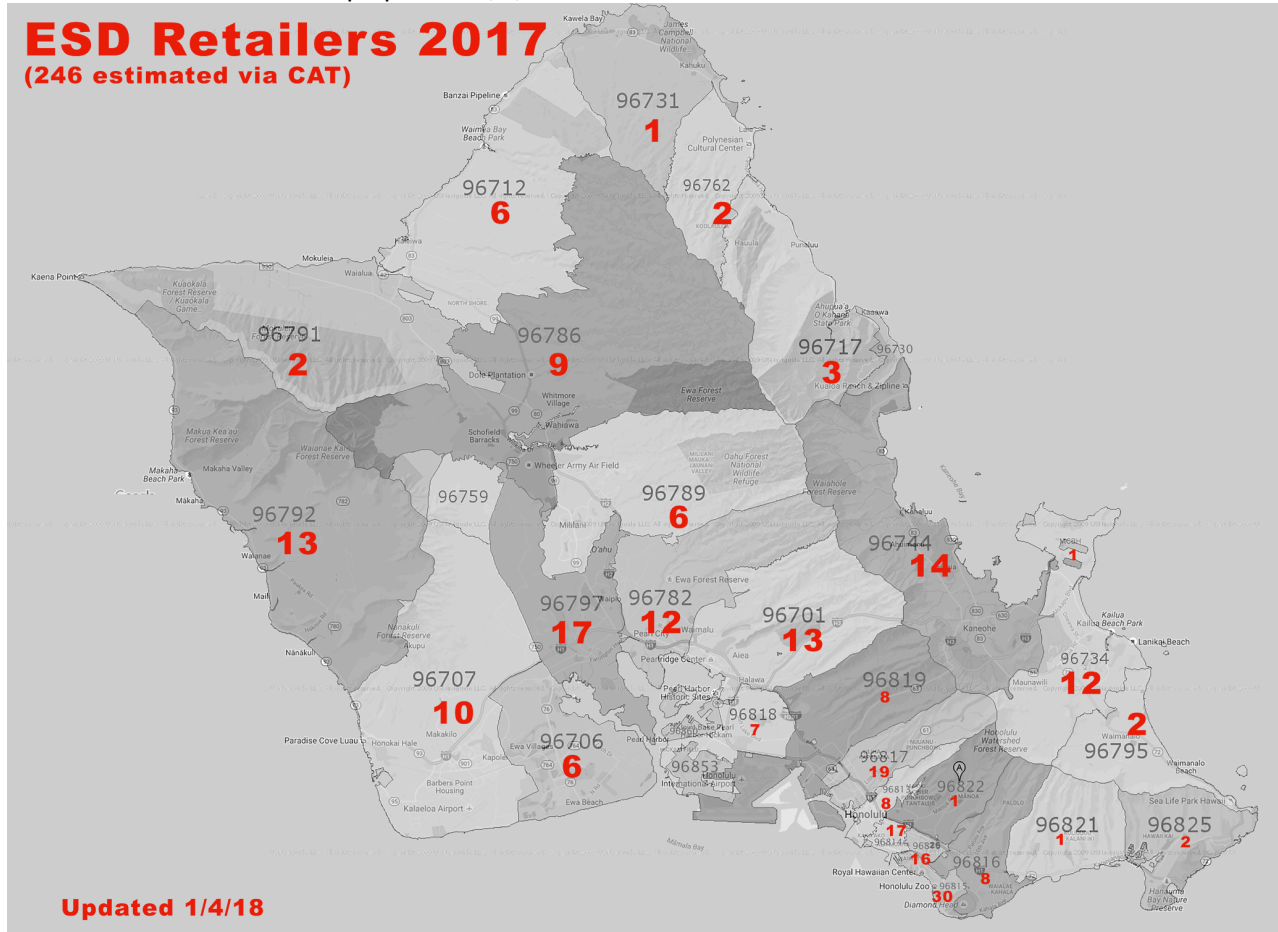
In addition, e-cigarettes have now surpassed cigarettes as the most commonly used tobacco product among youth. The 2017 Hawai'i Youth Risk Behavior survey reports that 1 in 4 (25.5%) public high school students and more than 1 in 6 (15.7%) public middle school students in Hawai'i reported that they are regularly vaping^{vii}. E-cigarettes often contain nicotine, which is addictive and harmful particularly to adolescents, whose brains are still developing. A 2016 report by the Surgeon General concluded that e-cigarettes are dangerous and a health threat to youth and young adults^{viii}.

SB2304 SD2 would help to reduce youth exposure to tobacco advertising and access to tobacco products by reducing tobacco retailer density in areas that youth frequent, and as a result help to prevent youth from using tobacco products.

Mahalo,

Trish La Chica, MPA
Policy and Advocacy Director

Attached: Oahu ESD Retailer Map updated 1/4/18



- i 96706 (Ewa), 96789 (Mililani), 96821 (Aina Haina), 96825 (Hawaii Kai)
- ii 96786 (Wahiawa), 96792 (Waianae), 96817 (Kalihi), 96815 (Waikiki)
- iii Henriksen L, Feighery EC, Schleicher NC, et al. (2008). Is adolescent smoking related to density and proximity of tobacco outlets and retail cigarette advertising near schools? *Preventive Medicine*, 4, pp. 201-214.
- iv Euromonitor International. (2017). *Cigarettes in China*.
- v U.S. Federal Trade Commission (FTC), Federal Trade Commission (FTC). *Cigarette Report for 2015, 2017*, See also, FTC, *Smokeless Tobacco Report for 2015, 2017*, State total is a prorated estimate based on cigarette pack sales in the state. For tobacco marketing influence on youth, see Pollay, R., et al., "The Last Straw? Cigarette Advertising and Realized Market Shares Among Youths and Adults," *Journal of Marketing* 60(2):1-16, April 1996; Evans, N., et al., "Influence of Tobacco Marketing and Exposure to Smokers on Adolescent Susceptibility to Smoking," *Journal of the National Cancer Institute* 87(20): 1538-45, October 1995; Pierce, J.P., et al., "Tobacco Industry Promotion of Cigarettes and Adolescent Smoking," *Journal of the American Medical Association (JAMA)* 279(7): 511-505, February 1998 [with erratum in *JAMA* 280(5): 422, August 1998].
- vi This study by Ward Research, Inc. summarizes findings from a phone survey among n=804 Hawaii registered voters (maximum sampling error +/-3.3%), conducted between October 24 and November 16, 2017.
- vii U.S. Centers for Disease Control and Prevention. *Results of the 2017 Hawaii Youth Risk Behavior Survey*.
- viii U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults, a Report from the Surgeon General* (2017). from https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Exec_Summ_508.pdf

LATE

Date: March 13, 2018

To: The Honorable John Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair
Members of the House Committee on Health and Human Services

Re: Strong Support of SB2304 SD2, Relating to Chapter 245, Hawaii Revised Statutes

Hrg: March 14, 2018 at 8:40am at Capitol Room 329

Thank you for the opportunity to submit testimony in SUPPORT of SB2304 SD2, which would which prohibit the issuance of retail tobacco permits and sale of tobacco products and electronic smoking devices (ESDs) by businesses that are located within five hundred fifty feet of public and private K-12 schools and playgrounds.

The Student Health Advisory Council has played a pivotal role in the development and implementation of health policies and tobacco education on the UH System campuses. In 2015, the Student Health Advisory Council actively supported the passing of Legislative Act 122, which prohibits the sale of all tobacco products to anyone under the age of 21. We remain deeply committed to the mission of improving the public health environment and reducing the use of tobacco products, including electronic smoking devices, among the adolescent and young adult population.

By creating tobacco-free school buffer zones and prohibiting the sale of tobacco near schools, we will be protecting youth from marketing and exposure to tobacco products. Greater exposure to ESD ads is associated with higher odds of youth ESD usage. Tobacco companies have rapidly increased ESD advertising spending in an attempt to market their product to youth. Some tactics include promoting themes of sex, independence, and rebellion, and also the variety of more than 7,000 unique flavors of e-liquid such as strawberry watermelon bubblegum, POG (passion-orange-guava), blue slushee, and sweet tart.

ESD use also increases the possibility of addiction to other tobacco products that can do even more damage to the body.

We strongly support and urge the passing of SB2304 SD2.

Mahalo on behalf of the Student Health Advisory Council,

Stormy Dodge and Raychelle Valiente



1050 Bishop St. PMB 235 | Honolulu, HI 96813
P: 808-533-1292 | e: info@hawaiiifood.com

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Derek Kurisu, KTA Superstores, *Advisor*

TO:
Committee on Health and Human Services
Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: Wednesday, March 14, 2018
TIME: 8:40am
PLACE: Conference Room 329

RE: SB 2304 Relating to Tobacco

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

The restrictions proposed by this bill would penalize businesses based on arbitrary geographic guidelines that the businesses themselves have no control over. This bill would include almost all of Waikiki and downtown as well as many other commercial and retail districts around the state.

Retailers already face stiff fines and penalties for sale of tobacco to minors and Hawaii is already one of just a handful of states to raise the smoking age to 21. It is unfair to single out certain retailers based on their locations and subject them to additional restrictions, which would essentially ban them from selling a legal product. We ask that this measure be held.



VOLCANO®

March 12, 2018

To: The Honorable Representative John M. Mizuno, Chair
The Honorable Representative Bertrand Kobayashi, Vice Chair
Members, House Committee on Health & Human Services

From: Cory Smith, VOLCANO eCigs®
CEO and Owner

RE: SB 2304 SD2 – 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 opposition to SB 2304 SD2 for the following:

- Vapor products and e-liquids contain NO tobacco, often times contain NO nicotine, and ultimately emit NO smoke when vaporized; yet **SB 2304 SD2 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.
- **SB 2304 SD2 equates to economic suicide for the state and would effectively equate to a ban on the retail sale of all tobacco and vapor products in thousands of existing retail locations statewide.** Considering the small land area of our islands thousands of businesses would be unable to comply with the restrictions and would in turn most likely be forced out of business resulting in massive economic turmoil, job losses and lost revenues.
- **SB 2304 SD2 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 do not 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>



VOLCANO®

- 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 vapor 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>
- SB 2304 SD2 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
- 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-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

It is our view that this bill and its poorly defined definitions and infeasible requirements would create a massive economic crisis and would result in the loss of thousands of businesses, 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



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
March 14, 2018**

Re: SB 2304 SD 2 RELATING TO TOBACCO

Good morning Chair Mizuno and members of the House Committee Health and Human Services. 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 smoking and is a goal we all share. However we are strongly opposed to SB 2304 SD2. By banning the sale of tobacco products or electronic smoking devices within 500 feet of a public or private preschool, elementary, intermediate or high school, or public playground is not the simple answer.

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 tobacco products. E cigs and tobacco products are not out on store shelves next to the snacks, but behind the counters or locked up. Anyone interested in purchasing these items would have to ask an employee and show proof of age with an ID.

Many businesses, especially the Mom and Pop type stores already exist by schools and parks. By creating a "retail buffer zone" that ban the sales of these type of products, many businesses especially small locally owned businesses will stand to be hurt and may potentially force some of these locally owned businesses to close, thus displacing workers who may be your family, friends or neighbors. Retailers statewide are already operating on a thin margin and face stiff competition and may not be able to survive this type of prohibition.

We respectfully ask that you hold this measure.

Mahalo again for this opportunity to testify.

LATE

Strong Support of SB2304 SD2, Relating to Tobacco

To the House Committee on Health and Human Services,

The Honorable John Mizuno, Chair The Honorable Bertrand Kobayashi, Vice
Chair Members of the House Committee on Health and Human Services

Hrg: March 14, 2018 at 8:40am at Capitol Room 329

As a member of the Breathe Aloha Club at UH Manoa, we promote healthy lifestyles among college aged students and are deeply concerned about the use of and exposure to tobacco by youth and children.

We are writing in strong support of SB2304 SD2 which would reduce the use, access, and exposure of tobacco products to youth by prohibiting the issuance of retail tobacco permits and sale of a tobacco product or an electronic smoking device within 500 feet of preschools, public and private K-12 schools and public playgrounds used by youth.

Tobacco licensing and zoning laws are effective strategies that impact the density of tobacco retailers, access to tobacco products and location of tobacco retailers. When more tobacco retailers are located in a given area, their overwhelming presence and marketing gives residents and youth in that community the impression that tobacco and electronic smoking devices are available, accessible, and acceptable.

Restricting the sale of tobacco products and electronic smoking devices near schools and playgrounds matter because minority populations, youth, and low-income communities are already disproportionately affected by tobacco. When tobacco store proximity and presence is strong in the community, it perpetuates social norms about tobacco use. Whether you are keiki walking to school or playground, daily exposure to these promotions suggest that smoking or vaping is acceptable.

We strongly support changing our tobacco zoning restrictions to create an area between schools and tobacco stores where our youth will be protected

from onslaught of advertising and retail availability of tobacco and e-cigarette products.

SB2304 SD2 is a policy solution that can protect our communities from being disproportionately targeted by tobacco, reduce tobacco-related health disparities, and encourages responsible tobacco retailing.

Sincerely,

Rachelann Purcell Taliloa
Breathe Aloha Club at UH Manoa



March 12, 2018

To: Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair
Rep. Della Au Belatti
Rep. Andria P.L. Tupola
Rep. Lei R. Learmont

Re: **Strong Support for SB2304 SD2**

Hrg: March 14, 2018 at 8:40am at Capitol Room 329

The Hawaii Public Health Association is a group of over 600 community members, public health professionals and organizations statewide dedicated to improving public health. HPHA also serves as a voice for public health professionals and as a repository for information about public health in the Pacific.

HPHA strongly supports SB2304 SD2 which would reduce the use, access, and exposure of tobacco products to youth by prohibiting the issuance of retail tobacco permits and sale of a tobacco product or an electronic smoking device within 750 feet of schools, public parks, and public housing complexes.

Tobacco licensing and zoning laws are effective strategies that impact the density of tobacco retailers, access to tobacco products and location of tobacco retailers. When more tobacco retailers are located in a given area, their overwhelming presence and marketing gives residents and youth in that community the impression that tobacco and electronic smoking devices are available, accessible, and acceptable.

Restricting the sale of tobacco products and electronic smoking devices near schools, public parks, and public housing matters because minority populations, youth, and low-income communities are already disproportionately affected by tobacco. When tobacco store proximity and presence is strong in the community, it perpetuates social norms about tobacco use. Whether you are keiki walking to school or playground, daily exposure to these promotions suggest that smoking or vaping is acceptable.

HPHA strongly supports changing our tobacco zoning restrictions to create an area between schools and tobacco stores where our youth will be protected from onslaught of advertising and retail availability of tobacco and e-cigarette products.

SB2304 SD2 is a policy solution that can protect our communities from being disproportionately targeted by tobacco, reduce tobacco-related health disparities, and encourages responsible tobacco retailing.

Thank you for the opportunity to provide testimony on important health issues affecting people in Hawai'i.

Respectfully submitted,

A handwritten signature in black ink that reads "Holly Kessler".

Holly Kessler, Executive Director
Hawaii Public Health Association

Strong Support of SB2304 SD2, Relating to Tobacco

The Honorable John Mizuno, Chair

The Honorable Bertrand Kobayashi, Vice Chair

Members of the House Committee on Health and Human Services

Hrg: March 14, 2018 at 8:40am at Capitol Room 329

I am writing in strong support of SB2304 SD2 which would reduce the use, access, and exposure of tobacco products to youth by prohibiting the issuance of retail tobacco permits and sale of a tobacco product or an electronic smoking device within 500 feet of preschools, public and private K-12 schools and public playgrounds used by youth.

Tobacco licensing and zoning laws are effective strategies that impact the density of tobacco retailers, access to tobacco products and location of tobacco retailers. When more tobacco retailers are located in a given area, their overwhelming presence and marketing gives residents and youth in that community the impression that tobacco and electronic smoking devices are available, accessible, and acceptable.

Restricting the sale of tobacco products and electronic smoking devices near schools and playgrounds matter because minority populations, youth, and low-income communities are already disproportionately affected by tobacco. When tobacco store proximity and presence is strong in the community, it perpetuates social norms about tobacco use. Whether you are keiki walking to school or playground, daily exposure to these promotions suggest that smoking or vaping is acceptable.

I strongly support changing our tobacco zoning restrictions to create an area between schools and tobacco stores where our youth will be protected from onslaught of advertising and retail availability of tobacco and e-cigarette products.

SB2304 SD2 is a policy solution that can protect our communities from being disproportionately targeted by tobacco, reduce tobacco-related health disparities, and encourages responsible tobacco retailing.

1. Marilyn Gagen
2. Mark Levin
3. Barbara Nosaka
4. Kim Swartz
5. Jennifer Hausler
6. Lisa Kehl
7. Michelle Kwock
8. Kathleen Maddux
9. Debbie Drummondo
10. Joann Yukimura
11. Stephanie Moir
12. Tyler Ralston
13. Patricia Fleck

14. Patricia Blair
15. Christopher La Chica
16. Curtis Palmer
17. Maria Moreno-Chow
18. Kathleen Corpuz
19. Mealani Rahmer
20. Lorrie Santos
21. Elizabeth Tam
22. Ronald Kuriki
23. Michelle Gray
24. Mae Kyono
25. Helen Barrow
26. Allie Hall

27. Maren Anka
28. Richard Collins
29. Carol Ignacio
30. Ellie Kelley-
Miyashiro
31. Leila Ventar
32. Michael Kellar
33. Dennis Barger
34. Stephen Harris
35. Cori Takesue
36. Tenaya Jackman
37. Kendra Medeiros
38. Alan Trinh
39. Diana M Shaw
40. Charity Kaiwi
41. Danielle Mitchell
42. Scott Stensrud
43. Michele Last Name
44. Thessalonica Sandi
45. Crystal Ono
46. Deidra Donato



March 14, 2018

Representative John M. Mizuno, Chair, House Committee on Health & Human Services
Representative Bertrand Kobayashi, Vice-Chair, House Committee on Health & Human Services
Honorable Members of the Senate Committee on Ways and Means

RE: **Strong Support of SB2304 SD2** Relating to Tobacco

Aloha Chair, Vice-Chair and Members of the Committee:

Blue Zones Project–Hawaii strongly supports SB2304 SD2, which places zoning restrictions for the sale of tobacco products and electronic smoking devices within 500 feet of a school and playgrounds. By regulating the location of sale, the bill addresses areas with highly vulnerable populations to the advertising tactics of the industry.

This bill will help to limit the high visibility of tobacco products and electronic smoking devices in places where youth spend the majority of their time, near schools and parks. Our youth are particularly vulnerable to the aggressive advertising that retailers of ESDs use. Not only do children get the message that ESDs are acceptable, but that it is a cool counterculture, which recognizes the unique aspects of teens and preteens. Furthermore, these retailers use youth focused flavors, techy designs and a variety of discount promotions, which are all appealing to our young people.

At Blue Zones Project we support those efforts that address the rapidly increasing health issues in our communities, such as the adverse health ailments from tobacco and nicotine products. We believe that by working to prohibit the aggressive marketing of tobacco and ESDs within close proximity to parks and schools is one of the ways to reduce rates of use. The retailers have been irresponsible regarding our most vulnerable populations.

The industry's major focus has always been on increasing their business and furthering their bottom line. It is time that we stand together as a community to more heavily regulate this industry. Please support SB2304 SD2.

Sincerely,

Peggy Mierzwa

Peggy Mierzway
Statewide Policy Lead
Blue Zones Project—Hawaii

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Hawaii by



An Independent Licensee of the Blue Cross and Blue Shield Association

LATE

SB-2304-SD-2

Submitted on: 3/13/2018 7:08:38 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------------|--------------|--------------------|--------------------|
| Raychelle Valiente | Individual | Support | No |

Comments:

Date: March 13, 2018

To: The Honorable John Mizuno, Chair

The Honorable Bertrand Kobayashi, Vice Chair

Members of the House Committee on Health and Human Services

Re: Strong Support of SB2304 SD2, Relating to Chapter 245, Hawaii Revised Statutes

Hrg: March 14, 2018 at 8:40am at Capitol Room 329

I **SUPPORT** SB2304, which would prohibit the issuance and renewal of retail tobacco permits and sale of tobacco products and electronic smoking devices (ESDs) by businesses that are located within 500 feet of a preschool, school, or certain public playgrounds.

Establishing buffer zones and prohibiting sales of tobacco near schools, will remove exposure to tobacco marketing that is intentionally aimed at children. E-cigarettes are now the most popularly used tobacco product among youth and young adults, surpassing cigarettes. Although ESDs were made to decrease the use of cigarettes, it has also fostered a modernized culture of smoking. The cool tricks on social media entice youth to try an ESD. The fun names and interesting smells of the liquid, are aimed to target our youth. These glamorized portrayals of smoking are directed to today's youth.

I strongly support and urge the passing of SB2304 SD2.

Mahalo,

Raychelle Valiente

LATE

SB-2304-SD-2

Submitted on: 3/13/2018 5:23:24 PM
Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Wilson Datario | Individual | Support | No |

Comments:

SB-2304-SD-2

Submitted on: 3/13/2018 4:55:12 AM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---|---------------------------|---------------------------|
| Melodie Aduja | OCC Legislative Priorities Committee, Democratic Party of Hawai'i | Support | No |

Comments:

PRESENTATION OF

THE COMMITTEE ON LEGISLATIVE PRIORITIES HAWAII

OAHU COUNTY

DEMOCRATIC PARTY OF

THE COMMITTEE ON HEALTH & HUMAN SERVICES

THE HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Wednesday, March 14, 2018

8:40 a.m.

Hawaii State Capitol, Conference Room 329

RE: Testimony in Support of SB2304 SD2, RELATING TO TOBACCO

To the Honorable John M. Mizuno, Chair; the Honorable Bertrand Kobayashi, Vice-Chair and the Members of the Committee on Health & Human Services:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SB2304 SD2**, relating to Tobacco; Electronic Smoking Devices; Tobacco Retailer Buffer Zones; and the Keiki Caucus.

The OCC Legislative Priorities Committee is in favor of **SB2304 SD2** and support its passage.

SB2304 SD2 is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it prohibits the issuance and renewal beyond 11/30/2019, of retail tobacco permits for businesses that are located within 500 feet of a preschool, school, or certain public playgrounds; and beginning on 12/1/2019, prohibits the sale of tobacco products and electronic smoking devices by businesses that are located within 500 feet of a preschool, school, or certain public playgrounds.

Specifically, the DPH Platform provides that "[w]e support the development of long-term care financing solutions, better pay and working conditions for all health care providers, parity of mental and physical health coverage, and appropriate regulation of health care delivery systems. We also support the development of empirically validated prevention programs targeted at major public health issues." (Platform of the DPH, P. 7, Lines 361-369, (2016)).

We support community health initiatives that provide opportunities for the overall health of communities through strategic projects and programs focusing on increased interaction and physical activities among all age groups, as well as on better nutrition. (Platform of the DPH, P. 7, Lines 378-380, (2016)).

Given that SB2304 SD2 prohibits the issuance and renewal beyond 11/30/2019, of retail tobacco permits for businesses that are located within 500 feet of a preschool, school, or certain public playgrounds; and beginning on 12/1/2019, prohibits the sale of tobacco products and electronic smoking devices by businesses that are located within 500 feet of a preschool, school, or certain public playgrounds, it is the position of the OCC Legislative Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Text/Tel.: (808) 258-8889

March 14, 2018

To: Representative John M. Mizuno, Chair
Representative Bertrand Kobayashi, Vice Chair
House Committee on Health & Human Services

From: Mandy Finlay, Director of Public Policy
Hawaii Children's Action Network

Re: **HB 2304, SD2 – Relating to Tobacco – STRONG SUPPORT**
Hawaii State Capitol, Room 329, March 14, 8:40 AM

On behalf of the Hawaii Children's Action Network (HCAN), we are writing in strong support of SB 2304, SD 2, which would reduce the use, access, and exposure to tobacco products by youth by prohibiting the issuance of retail tobacco permits and sale of a tobacco product or an electronic smoking device within 500 feet of a preschool, school, or certain public playgrounds.

ESD or e-cigarette use among youth and young adults has become a national public health concern. E-cigarettes are now the most popularly used tobacco product among youth and young adults, surpassing cigarettes. While smoking rates in Hawaii have decreased through the years, ESD use has rapidly increased, threatening the state's current tobacco prevention efforts. This is particularly concerning because e-cigarettes provide a new way to deliver the drug nicotine. No matter how it is delivered, nicotine exposure can lead to addiction and harm the developing brain. Studies are also finding that ESDs can lead to smoking cigarettes for new users, including kids.

Tobacco licensing and zoning laws are effective strategies that impact the density of tobacco retailers, access to tobacco products and location of tobacco retailers. When more tobacco retailers are located in a given area, their overwhelming presence and marketing gives residents and youth in that community the impression that tobacco and electronic smoking devices are available, accessible, and acceptable. SB 2304 is a policy solution that can protect our communities from being disproportionately targeted by tobacco, reduce tobacco-related health disparities, and encourages responsible tobacco retailing.

For the above reasons, HCAN respectfully requests your Committee to pass this measure.

HCAN is committed to building a unified voice advocating for Hawaii's children by improving their safety, health, and education.

Date: March 12, 2018

To: The Honorable John Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair
Members of the House Committee on Health and Human Services

Re: **SUPPORT for SB2304 SD2**, Relating to Tobacco

Hrg: March 14, 2018 at 8:40am at Capitol Room 329

Respected Members of the House Committee on Health and Human Services,

As a parent and healthcare professional, **I am writing in strong SUPPORT of SB2304 SD2** that would reduce the use, access, and exposure of tobacco products to youth by prohibiting the issuance of retail tobacco permits and sale of a tobacco product or an electronic smoking device within 500 feet of preschools, public and private K-12 schools and public playgrounds used by youth.

Tobacco licensing and zoning laws are effective strategies that impact the density of tobacco retailers, access to tobacco products and location of tobacco retailers. When more tobacco retailers are located in a given area, their overwhelming presence and marketing gives residents and youth in that community the impression that tobacco and electronic smoking devices are available, accessible, and acceptable.

Restricting the sale of tobacco products and electronic smoking devices near schools and playgrounds matters because youth are indirect targets of tobacco retailing. When tobacco store proximity and presence is strong in the community, it perpetuates social norms about tobacco use. For keiki walking to/from school or the playground, daily exposure to these establishments and their promotions suggests that smoking or vaping is acceptable.

I strongly support changing our tobacco zoning restrictions to create a buffer zone between schools and playgrounds and tobacco stores to protect our keiki from the influence of advertising and retail availability of tobacco and e-cigarette products.

SB2304 SD2 is a policy solution that can protect the youth in our communities from being disproportionately targeted for tobacco use, reduce tobacco-related health disparities, and encourage responsible tobacco retailing.

I strongly **support SB2304 SD2** and respectfully ask you to pass this bill out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD
Keaau, HI

SB-2304-SD-2

Submitted on: 3/12/2018 12:33:33 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| C. Azelski | Individual | Support | No |

Comments:

[SB2304 SD2](#) would create tobacco-free buffer zones near preschools, public and private K-12 schools, and public playgrounds used by youth, helping to reduce the density of tobacco retailers. Minority populations, youth, and low-income communities are already disproportionately affected by tobacco -- buffer zones can help address that. I support this measure.

SB-2304-SD-2

Submitted on: 3/12/2018 9:17:57 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|--|---------------------------|---------------------------|
| PHC HNL | Pioneering Healthier Communities of Honolulu | Support | No |

Comments:

The Pioneering Healthier Communities Initiative brings together local, diverse leaders to discuss and support strategies, policies and programs that we can accomplish together to build healthier communities in our island home. The members of PHC are involved in helping children and families to become healthier through schools, afterschool programs, healthcare and more.

E-cigarette use, especially among today's youth, has skyrocketed. Drive by any local Hawaii middle or high school before or after school and you will witness the large number of youth using these devices. But e-cigarettes are far from healthy. They contain chemicals, such as nicotine and diacetyl, that are known to have serious health consequences.

E-cigarette manufacturers are aggressively marketing their products to kids, teens, and young adults. Products are glamorized through the use of celebrities, discounts, and flavorings such as cotton candy, and Maui mango.

Legislation to create buffer zones near schools and other areas used by children and youth is essential.

We strongly support SB2304 SD2 and ask you to pass this Bill.

Thank you very much for allowing us to testify:

May Okihiro

Michael Broderick

Daniel Leung

Stacy Evensen

Tina Tamai

Diane Tabangay

Jennifer Dang

Paula Adams

Ray L'Heureux

Michael Libertini

SB-2304-SD-2

Submitted on: 3/12/2018 9:43:29 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Robert Kapanui | Individual | Support | No |

Comments:

I Robert Lopaka Kapanui submit this testimony as someone who does not smoke but is in support of those who do so as long as they are not being a detriment to anyone. With such a concerted effort to ban tobacco use in the community, there should be an equally strong push to rid the community of things like Monsanto, overdevelopment, homelessness, drug use, and corruption. I suppose however those priorities are askew and it seems easier to close out businesses which sell e-cigs and the like. I guess the more pressing issues can wait.

hawaiiCigar

ASSOCIATION

To: Representative John M. Mizuno, Chair, and Members of the House Committee on Health & Human Services

Date: Wednesday, March 14, 2018
Time: 8:40 a.m.
Place: Conference Room 329, State Capitol

From: Les Drent
for the Hawaii Cigar Association (HCA)

Re: SB2304, SD2, Relating to Tobacco

Dear Representative John M. Mizuno, Chair, and Members of the House Committee on Health & Human Services,

The Hawaii Cigar Association (HCA) stands in strong opposition to SB2304, SD 2, a bill which would prohibit the issuance of retail tobacco permits and sale of tobacco products and electronic smoking devices by businesses that are located within 500 feet of a preschool, school, or certain public playgrounds.

The HCA is committed to protecting the freedom of legal-age adults to enjoy cigars. Large cigars are rarely--if ever--possessed or consumed by minors and therefore pose negligible risk to them. Children are not attracted to cigars, and their cost--between \$5 and \$30 apiece on average--prices them beyond the reach of most minors. The HCA stands united with the Legislature in ensuring that Hawai'i's youth be discouraged from using tobacco of any kind, including cigars.

When the legal age is already 21 to purchase a cigar in Hawaii, why is this law needed?

Sincerely,



Les Drent
for the Hawaii Cigar Association

For More Information on the Hawaii Cigar Association please visit
hawaiicigarassociation.org

SB-2304-SD-2

Submitted on: 3/12/2018 12:26:46 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Devin Wolery | PCG Enterprises LLC | Oppose | No |

Comments:

no grandfather clause would put many businesses out of business.

The temporary grandfather clause is useless. When many businesses have 3-5+ year leases.

SB-2304-SD-2

Submitted on: 3/12/2018 2:30:32 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|------------------------|---------------------------|---------------------------|
| ellen benton | Irie Hawaii Smoke Shop | Oppose | No |

Comments:

I oppose this bill.

SB-2304-SD-2

Submitted on: 3/12/2018 3:28:41 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Mariner Revell | Irie Hawaii Stores | Oppose | No |

Comments:

SB2304 SD2 will kill my small business, force the lay off of 31 jobs on The Big Island, and negatively affect the the livelihood of 31 families.

Our tobacco shops Irie Hawaii are a dying breed of business, a locally owned and family operated small retail business. Our company employees 31 people. We are a brick and mortar retail stores located in small Hawaii towns HILO, Kailua Kona, and PAHOA. If you are familiar with these towns you know if you are located in the center of town, odds are you are within 500 feet of a park, school (public or private) every church has a pre school.

Our main product is tobacco products. We built our business from a small store in 2009 to a 5 location business that now employs 31 people. We are a LOCAL native Hawaiian owned and operated business. We regularly hold community events such as the free concert featuring the Band Kapena which was held at uncle Roberts in Kalapana, funds raiser event that raised nearly \$4000 for non profit groups Aloha Ilio dog rescue and KDEN productions a local non profit theater production, or the free food and refreshments we held in front of our Pahoa store after hurricane Iselle, and numerous donations and fund raisers for ill community members in need. We don't just do business in our communities we support our community!

Following the law and keeping underaged people off tobacco is of the utmost importance to all of us. It is the law and it is our policy!

All of our businesses are located in commercial retail zoned areas. The towns we are located in are small and close to everything! This bill is not reasonable and will cost us our livelihoods. This bill will not only shut down our stores, it will bankrupt me due to all of the leases I have on my locations. Please do not pass SB2304 SD2.

SB-2304-SD-2

Submitted on: 3/12/2018 10:19:35 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|------------------------|---------------------------|---------------------------|
| marc rodriguez | Irie Hawaii smoke shop | Oppose | No |

Comments:

i oppose this bill.

SB-2304-SD-2

Submitted on: 3/12/2018 3:45:17 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Dillon Rellez | Irie Hawaii | Oppose | No |

Comments:

To whom it may concern, my opinion for this matter is that these laws should not take place. Reason being there will be so many workers out of a job and people will have to quit their habits in certain areas and that is not fair to anyone. Thank you.

SB-2304-SD-2

Submitted on: 3/12/2018 12:50:46 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Vin Kim | Eciggity | Oppose | No |

Comments:

This law will close a big chunk of small businesses which will result in a huge loss of jobs.

SB-2304-SD-2

Submitted on: 3/12/2018 3:47:45 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Jude Neil | Eciggity | Oppose | No |

Comments:

Because I don't want to go back to smoking. It's simple as that. When you have a bad habit, you don't simply go back, but if these bills pass, I'll most likely revert back to my old self.



TO: COMMITTEE ON HEALTH & HUMAN SERVICES
Rep. John M. Mizuno, Chair
Rep. Bertrand Kobayashi, Vice Chair

FROM: Richard Parry
President and CEO

HEARING

DATE: Wednesday, March 14, 2018
TIME: 8:40 a.m.
PLACE: State Capitol, Conference Room 229

RE: Testimony in Opposition to SB 2304 SD2 Relating to Tobacco

Chair, Vice Chair, and Members of the Committee on Health & Human Services, I am Richard Parry, President and CEO of Aloha Petroleum, Ltd. ("Aloha Petroleum").

Aloha Petroleum opposes SB 2304 SD2 relating to Tobacco, which prohibits the issuance or renewal of retail tobacco permits and the sale of tobacco products and electronic smoking devices by businesses that are located within five hundred feet of a public or private school, or public playground utilized extensively by minors.

The Department of the Attorney General of Hawaii has already warned about the constitutional issues with SB2304 SD1. Specifically, SB2304 SD1 may violate the Fifth Amendment of the United States Constitution, which prohibits the taking of private property for public use without just compensation, and the Fourteenth Amendment which requires equal access under the law to a legal commodity by members of the general public who are of legal age to purchase the tobacco products. The same issues apply to SB2304 SD2.

Accordingly, this bill is overreaching and would have serious adverse economic consequences. SB 2304 SD2 would unfairly target and penalize existing small businesses in Hawaii. As drafted, hundreds of businesses in Hawaii would be shut down or their economic viability would be threatened. As recommended by the Department of the Attorney General of Hawaii, existing businesses should be grandfathered under this bill, and expressly allowed to renew their retail tobacco permits.

Finally, Hawaii's current laws already prohibit the sale of any tobacco product to anyone less than twenty-one years of age regardless of the geographic location of the

Testimony of Aloha Petroleum, Ltd.



SB 2304 SD2 re Tobacco
Hearing Date/Time:
March 14, 2018 at 8:40 a.m.

sale. As you know, the sale of age restricted products like tobacco and alcohol is already highly regulated by the federal, state and county government agencies. Adults have the right to buy such products if they wish, and the sale of tobacco and alcohol to minors is strictly prohibited and routinely checked by government regulators. Any violation of these regulations result in large fines to the business, including the suspension or revocation of the required permit or license to sell tobacco and alcohol. Accordingly, like many other legitimate businesses, Aloha Petroleum has a rigorous training program for its employees for the sale of age restricted products. Aloha immediately suspends any sales associate without pay for any violation of these regulations and policies and terminates the employee if a violation is repeated.

For all the above reasons, please vote no on this measure.

Thank you for the opportunity to testify in opposition to SB 2304 SD2.



To: Senator Donovan M. Dela Cruz
Senator Gilbert S.C. Keith-Agaran
Members on the Senate Committee on Ways and Means

From: Jon Miyabuchi, Vice President Retail Operations
Hawaii Petroleum, Inc.

RE: SB2304 SD1, Relating to Tobacco Retail Buffer Zones
Companion: HB 2158

Date: March 12, 2018

Thank you for the opportunity to provide testimony. Hawaii Petroleum is an independent petroleum marketer operating on the islands of Maui and Hawaii, and employees approximately 325 people on the two islands. Hawaii Petroleum **opposes SB2304 SD1** as it is written for the following reasons.

1) **Bill punishes all retailers, especially those that follow the law:** Hawaii Petroleum does not advocate nor condone smoking by Hawaii’s underaged youth. Our retail outlets require every person that wants to purchase tobacco products, including vape supplies and e-cigarettes, to present a valid government I.D. We have an exemplary record against tobacco stings. We do sell tobacco to adults that choose to smoke. This bill, as currently written, would unfairly punish retailers that happen to be located within 500 feet of a preschool, school, public housing, or public park. There is no clause to allow locations that have been conducting business for years within these zones to be grandfathered in. This is not fair for sites like ours that follow the law and do not sell to minors. This bill reduces revenue to locations that have done nothing wrong, that only sells to consenting adults. We have no advertising of tobacco products outside of our stores. We do not advertise tobacco inside of our locations, other than price signs.

We do not encourage our youth to smoke. Again, we sell tobacco products to adults that choose to smoke. All this bill accomplishes, is that it limits the personal freedoms of adults that want to smoke. If advertising is a concern, then restrict and ban all exterior tobacco advertising at retail outlets. This would do more to reduce access to tobacco for our youth than eliminating sales in “tobacco free zones”.

2) **Focus on enforcement, to catch the violator(s). Not a blanket bill to punish all:** This bill unfairly punishes retailers based on location and does not provide the retailers any recourse. If we are to reduce tobacco sales to minors, then the bill should focus on the problem—retailers that allow sales to underaged smokers. The bill should be directed at those violators only. We suggest the bill be changed to increase tobacco stings and the penalties to those that sell to our youth, including

Maui: 385 Hukilike Street, #101 | Kahului, Hawaii 96732 | t: 808.270.2800 | f: 808.270.2801

Hilo: 16 Railroad Avenue, #202 | Hilo, Hawaii 96720 | t: 808.935.6641 | f: 808.934.7197

Kona: 74-5558 B Kaiwi Street | Kailua-Kona, Hawaii 96740 | t: 808.329.1862 | f: 808.326.2755

e-mail: sales@hawaiipetroleum | www.hawaiipetroleum.com | www.ohanafuels.com | www.ministop.com

suspension and/or revocation of licenses to sell. Focus on the problem and don't punish those that comply with the law.

- 3) **Eliminate tobacco advertising on store exteriors:** The bill states, "Youth who walk or take public transportation to school may be exposed to advertising of tobacco products and electronic smoking devices at locations such as convenience stores, grocery stores, and gas stations." Today's youth receive much more exposure to tobacco advertising through magazines and the internet than from law abiding retailers. However, if exterior advertising is the concern, then we suggest the bill should instead ban external signage and advertising of tobacco products. Banning sales within 750 feet of schools, public parks and housing, will not solve the issue. If shops that sell to minors are not located within those zones, then the bill does nothing to address the issue. It instead punishes those that are in compliance. Retailers that allow minors to purchase tobacco are the real issue and should be dealt with accordingly, rather than a blanket ban on all retailers within a randomly chosen zone.

I urge you to consider the above items when considering SB2304 SD1 to craft a bill that is effective, yet fair

Mahalo.

Jon Miyabuchi

Vice President Retail Operations

Hawaii Petroleum, Inc.

Dear House Health Committee,

I am writing you in strong opposition to Bill SB2304 SD2

This bill would unfairly strip businesses who currently have licenses due to no fault of their own. This type of regulation is unfair and needs to be stopped to prevent legal, law-abiding businesses from losing their license to make a living.

While the goal of preventing youth smoking is more than admirable. But, I think this bill goes too far, and is trying to solve a problem that does not exist. Youth smoking rates have continued to fall over the past decade, and this coupled with last year's raise of the legal age to 21 should be considered when considering a measure that would put many vendors out of business.

Tobacco products are already taxed at a very high rate, and these revenues are used by the State for programs that make all of our lives better - schools, streets, health care and smoking cessation programs. As we all know the State is in a tough financial situation, and this bill as written would significantly reduce tax revenues for the State.

I hope you will see that this bill needs to be reconsidered, and deferred until further research has been done on the negative impacts to small business owners and the State's tax situation.

Thank you for considering this testimony and I hope you will defer this bill

Aloha,

Robert Asuncion

SB-2304-SD-2

Submitted on: 3/12/2018 12:50:07 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Teddy Kim | Individual | Oppose | No |

Comments:

SB-2304-SD-2

Submitted on: 3/12/2018 12:54:56 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Rafael Montero | Individual | Oppose | No |

Comments:

SB-2304-SD-2

Submitted on: 3/12/2018 1:40:53 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| ASHLEY MATTOS | Individual | Oppose | No |

Comments:

Tobacco sellers have been around for so long, why is this only a problem now? The age for tobacco has already gone up in age from 18 to 21 & now you want to close down business if they are close to certain areas. So many people will lose their job because their place of work will either shut down or not be able to pay them. So many people will not be able to provide for their families as a result to losing jobs.

SB-2304-SD-2

Submitted on: 3/12/2018 2:16:09 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Garrick Aylesworth | Individual | Oppose | No |

Comments:

SB-2304-SD-2

Submitted on: 3/12/2018 2:23:14 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Jinna Kim | Individual | Oppose | No |

Comments:

Unbelievable, please understand how Vaping helps people quit smoking and is an healthier alternative them smoking tobacco or doing worse drugs in Hawaii that people can get a hold of easier. If this bill passes it will be highly more likely that people will buy items off blackmarket which is more dangerous then purchasing items from established Vape stores. This will create less jobs for people in Hawaii you guys treat vaping as something horrible but if you do your reasearch there are a lot of health benifits then smoking and taking on bad habits of street drugs which Hawaii is very known for. Please consider changing the laws for DRUGS rather then stricting the laws on Vaping which is far worse from other habits!

SB-2304-SD-2

Submitted on: 3/12/2018 3:26:05 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Andy Takaaze | Individual | Oppose | No |

Comments:

I'm opposed to this bill for the fact that it will cause the loss of numerous jobs of hard working, tax paying citizens. Tobacco license owners already adhere to strict rules and regulations this bill would simply force them out of business. Thank you for your time.

SB-2304-SD-2

Submitted on: 3/12/2018 3:28:43 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Dean Kroh | Individual | Oppose | No |

Comments:

SB-2304-SD-2

Submitted on: 3/12/2018 3:31:59 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| HANALEI BENN | Individual | Oppose | No |

Comments:

I'm oppose to this bill because it will affect not only myself but along with other family and friends to lose there jobs. It's not easy to support your family when bills like this is made. it affects the entire community! Please think about all the people you'll put out of jobs. Thanks you for your time.

SB-2304-SD-2

Submitted on: 3/12/2018 3:53:39 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Justin Duty | Individual | Oppose | No |

Comments:

Children are not of age to buy products in these stores. This is a NON-ISSUE. SB2304 SD2 is a complete waste of time and example of anti-business practices.

SB-2304-SD-2

Submitted on: 3/12/2018 4:07:04 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Chad Wheeling | Individual | Oppose | No |

Comments:

SB-2304-SD-2

Submitted on: 3/12/2018 4:37:59 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------------|---------------------|---------------------------|---------------------------|
| VALENTINO MIRANDA-KEPA | Individual | Oppose | No |

Comments:

SB2304 SD2 will kill my small business, force the lay off of 31 jobs on The Big Island, and negatively affect the the livelihood of 31 families.

Our tobacco shops Irie Hawaii are a dying breed of business, a locally owned and family operated small retail business. Our company employees 31 people. We are a brick and mortar retail stores located in small Hawaii towns HILO, Kailua Kona, and PAHOA. If you are familiar with these towns you know if you are located in the center of town, odds are you are within 500 feet of a park, school (public or private) every church has a pre school.

Our main product is tobacco products. We built our business from a small store in 2009 to a 5 location business that now employs 31 people. We are a LOCAL native Hawaiian owned and operated business. We regularly hold community events such as the free concert featuring the Band Kapena which was held at uncle Roberts in Kalapana, fund raiser event that raised nearly \$4000 for non profit groups Aloha Ilio dog rescue and KDEN productions a local non profit theater production, or the free food and refreshments we held in front of our Pahoia store after hurricane Iselle, and numerous donations and fund raisers for community members in need. We don't just do business in our communities we support our community!

Following the law and keeping underaged people off tobacco is of the utmost importance to all of us. It is the law and it is our policy!

All of our businesses are located in commercial retail zoned areas. The towns we are located in are small and close to everything! This bill is not reasonable and will cost us our livelihoods. This bill will not only shut down our stores, it will bankrupt me due to all of the leases I have on my locations. Please do not pass SB2304 SD2.

To whom It may concern,

I oppose bill **SB2304 SD2**. I've been a heavy smoker of traditional tobacco cigarettes for over a decade and only quit the last 3 years after being introduced to the lifesaving technology which we know now as electronic cigarettes or e-cigarettes. I am no longer out of breath doing minor chores, getting up in the morning coughing, feeling sick and tired. All this due to switching over to e-cigarettes and have been tobacco cigarette free since.

This bill imposes on what we Americans believe in, which is freedom of choice and consumer rights to options. It's easy for a non-smoker to tell us to "**just quit**" but as a smoker myself it's easier said than done. The best route would be to have options for a healthier & better alternative. A report published by Public Health England (PHE), an agency sponsored by the UK's Department for Health, has concluded that e-cigarettes are 95 percent less harmful than traditional smokes. Also! there's no actual "**Tobacco**" in e-cigarettes!

Yet our U.S. Government continues to deny and ignore these facts and studies due to potential loss in tobacco tax revenues which each State including Hawaii receives. It's like our Government is more concerned about money than American lives which they can potential save by having an open mindedness to this new life saving technology.

On top of imposing on our rights as Americans, this bill is detrimental to small businesses here in Hawaii. Small businesses will "**Go Out of Business**" if this bill is pass, there is no doubt in my mind. Thousands will be out of jobs, unable to support their family and will struggle to survive in a high cost living situation here in Hawaii which many Hawaii residents faces each day. It will force small businesses to move to the mainland which is the total opposite of what we've been trying to do here in Hawaii which is to create more jobs and opportunities.

I implore you to re-review these bills relating to e-cigarettes, look pass all the politics/political gains and see the negative impact it will have on many residents here in Hawaii.

Sincerely, *Vince Tran*

Resident of Honolulu, Hawaii

SB-2304-SD-2

Submitted on: 3/12/2018 5:21:28 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| linda revell | Individual | Oppose | No |

Comments:

I am a senior citizen and I am not in favor of the tobacco bill that will prohibit sales within 500 feet of schools and parks. I strongly feel this bill is an infringement of my rights as a citizen to be able to purchase tobacco in any legitimate establishment no matter the location.

SB-2304-SD-2

Submitted on: 3/12/2018 5:45:30 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Chelsey Hanselman | Individual | Oppose | No |

Comments:

I oppose this bill.

Thank you

SB-2304-SD-2

Submitted on: 3/12/2018 6:05:48 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Alika Medeiros | Individual | Oppose | No |

Comments:

SB-2304-SD-2

Submitted on: 3/12/2018 6:23:33 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Michael Miller | Individual | Oppose | No |

Comments:

SB-2304-SD-2

Submitted on: 3/12/2018 6:41:21 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Mary Clarose | Individual | Oppose | No |

Comments:

SB-2304-SD-2

Submitted on: 3/12/2018 6:48:35 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Jonathan Kimura | Individual | Oppose | No |

Comments:

I opposed SB2304 as I believe that it may have the unintended consequence of hurting many small business that rely on the sale of tobacco products as a primary source of their revenue. I have always been a non-smoker, but it seems to me that the existing laws that restrict the sale of tobacco based on age are sufficient and effective. I do not think further legislation is needed.

SB-2304-SD-2

Submitted on: 3/12/2018 7:19:53 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Theresa Burian | Individual | Oppose | No |

Comments:

SB2304 SD2 will have a horrible impact on small businesses. Many businesses are located in commercial retail zoned areas. Many of these towns are so small and located next to everything making this bill unreasonable. Please reconsider and vote against SB2304 SD2.

March 12, 2018

Dear Chairman Mizuno and Members of the House Health & Human Services Committee,

I write you in strong opposition to SB2304

The resale of Tobacco products to include Cigarettes, Cigars, Moist Tobacco, SNUS, RYO Tobacco, and Electronic Vape products, to adults 21 years of age or older is legal in the United States and therefore in the State of Hawaii.

There are rules and regulations enacted by our State Legislature and enforced by various Law Enforcement and Regulatory agencies in the State of Hawaii that state emphatically that sales of all Tobacco products are prohibited to anyone under the age of 21 years.

Minit Stop is a responsible retailer. We offer as part of our product mix various Tobacco products to adults over 21 years of age because there is a legal and responsible desire from these adults to partake in Tobacco use through smoking, dipping, or chewing, the products offered.

Minit Stop employs members of the community who have no desire to entice people underage to use Tobacco in any form. We have back bar tobacco displays that do not allow shopping or handling of the Tobacco products offered by folks other than those employed in our store. Cigarettes are sold as Red, Green, Gold, or Blue, formats that do not encourage or suggest flavors as enticements. These color designations are not appealing to anyone underage as they do not convey sweet, cool, or hip, to folks younger than 21 years of age.

As a retailer we adhere to the rules and regulations which is not an easy but needs to be done. We agree with the rules in place and agree it makes retailers responsible in making sure Tobacco is sold correctly and never to anyone underage. There are a few bad apples but not many who choose to circumvent the law for monetary gain. As a responsible retailer we believe retailers like these make it difficult for everyone else hence if caught they need to be fined and have their license placed in jeopardy and subject to review.

I can speak for Minit Stop and state unequivocally that we place a huge emphasis on working to educate all store employees throughout our chain that **we do not sell age restricted products to anyone under 21** years of age to a point where we card anyone of any age regardless if you look under 21 or over 50 years old!! We take a lot of heat for this but folks know you can't buy at Minit Stop if you are underage.

Because of this we find SB2304 an affront to our efforts to date. Our reward for doing a good job on the front of age restricted sales is to create a law that gains nothing except place retailers like Minit Stop in jeopardy of losing part of our commerce simply because we have a property 500' from a school or park.

Our government and regulatory agencies should embrace all responsible retailers who follow the law to the "T" and who have the track record to prove it and encourage us to continue to operate responsibly in the areas that we do. To place our business in jeopardy with a law like this hurts our responsible employees and management, and puts their jobs on the line.

Let's be fair and enforce the laws on the books. Please do not punish those of us who follow the law by creating a regulation that paints all retailers good and bad with the same brush, suggesting none of us

are responsible enough to sell age restricted products near schools or parks to law abiding adults over the age of 21. All we ask is a fair shake and allow us to run our business under the laws in place and not add any like SB2304 based on statistical information that did not include the integrity and track record of retailer like Minit Stop the law would like to restrict.

Mahalo for allowing me to testify on this bill. I consider it an honor and a privilege afforded to us by our wonderful country and State of Hawaii.

SB-2304-SD-2

Submitted on: 3/12/2018 9:45:04 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| jensie | Individual | Oppose | No |

Comments:

SB-2304-SD-2

Submitted on: 3/12/2018 11:35:46 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Kainen | Individual | Oppose | No |

Comments:



To: Representative John M. Mizuno, Chair, and Members of the House Committee on Health & Human Services

Date: Wednesday, March 14, 2018

Time: 8:40 a.m.

Place: Conference Room 329, State Capitol

From: Les Drent
for the Kauai Cigar Company

Re: SB2304, SD2, Relating to Tobacco

Dear Representative John M. Mizuno, Chair, and Members of the House Committee on Health & Human Services,

The Kauai Cigar Company, its employees, and industry partners stand in strong opposition to SB2304, SD 2, a bill which would prohibit the issuance of retail tobacco permits and sale of tobacco products and electronic smoking devices by businesses that are located within 500 feet of a preschool, school, or certain public playgrounds.

This measure would be harmful to many of the small businesses we partner with, farmers, and our employees. This cuts to the core of why small businesses continue to suffer in this nation. This proposal is nothing more than a way to turn more Americans against government bureaucracy. This kind of regulation serves no purpose but to control another aspect of our lives.

When the legal age is already 21 to purchase a cigar in Hawaii, why is this law needed?

Sincerely,

Les Drent
Farmer/President

SB-2304-SD-2

Submitted on: 3/13/2018 7:10:24 AM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Doug Cobile | Individual | Oppose | No |

Comments:

I oppose sb2304 sd2.

SB-2304-SD-2

Submitted on: 3/13/2018 8:32:25 AM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Nina Bauguess | Individual | Oppose | No |

Comments:

I respectfully oppose SB2304 SD2. Please reconsider the impact this bill will have on small businesses. Mahalo

SB-2304-SD-2

Submitted on: 3/13/2018 10:05:22 AM

Testimony for HHS on 3/14/2018 8:40:00 AM

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

Comments:

First of all, there are already laws on the book restricting the sale of tobacco products to persons under the age of majority. If there is a problem of juveniles purchasing these products near schools or parks, then the answer is enforcement. Perhaps through supporting community policing in areas near schools or parks - actually having officers on regular foot patrol to enforce the existing laws.

With respect to adults, I see no reason to restrict sales of a legal product to an adult, regardless of the proximity to schools, parks or public housing. Adults have a choice, and this choice is protected under the Constitution. I cannot support restricting an individual's right to purchase a legal product.

Therefore, I oppose this measure.

SB-2304-SD-2

Submitted on: 3/13/2018 11:17:32 AM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Sara Kay | Individual | Support | No |

Comments:

I strongly support SB2304 SD1 which would create a buffer zone around schools preventing the sales of tobacco and e-cigarettes. Restricting the sale of tobacco products and electronic smoking devices near schools, public parks, and public housing matters because minority populations, youth, and low-income communities are already disproportionately affected by tobacco.

As a youth growing up in Hawaii, I have been constantly exposed to seeing vaping and the "fun Hawaii-exclusive" flavors, which cause my peers to succumb to their curiosity and try vaping illegally. Additionally, there are numerous pro-vape advertisements around social media, such as Instagram and Twitter. These photos can be "blocked" online, but they have no restrictions in real life. It is our responsibility to shield the youth from these influences.

Vaping, like smoking, is scarily addictive for students. Moreover, it can lead to serious health concerns in the future that they are unaware of or don't consider. I know firsthand that students are already dealing with peer pressure to try vaping; why should these products be so convenient and close to schools?

There is no reason for vape to be sold nearby a school. I humbly ask that you please consider Hawaii's future and protect the keiki.

Mahalo
Sara Kay
Punahou School Grade 12

SB-2304-SD-2

Submitted on: 3/13/2018 11:42:09 AM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| LOVEY SILVA | Individual | Oppose | No |

Comments:

OPPOSE ON BILL

LATE

SB-2304-SD-2

Submitted on: 3/13/2018 4:35:19 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|-------------------------|---------------------------|---------------------------|
| Michael Zehner | Hawaii Smokers Alliance | Oppose | No |

Comments:

We need to see smoking bans repealed not take even more of our civil rights away.

LATE

SB-2304-SD-2

Submitted on: 3/13/2018 4:49:24 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Mark Owens | Individual | Oppose | No |

Comments:

LATE

SB-2304-SD-2

Submitted on: 3/13/2018 5:38:55 PM
Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Clayton Silva | Individual | Oppose | No |

Comments:

LATE

SB-2304-SD-2

Submitted on: 3/13/2018 5:54:53 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Cindy Nettles | Individual | Oppose | No |

Comments:

LATE

SB-2304-SD-2

Submitted on: 3/13/2018 5:45:47 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Sean Higa | Individual | Oppose | No |

Comments:

LATE

SB-2304-SD-2

Submitted on: 3/13/2018 6:00:34 PM

Testimony for HHS on 3/14/2018 8:40:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------------|---------------------------|---------------------------|
| Blake Yokotake | Seven-Eleven Hawaii, Inc. | Oppose | No |

Comments:



LATE

Testimony of Jim Yates,
President of the Hawaii Petroleum Marketers Association

**IN OPPOSITION TO SENATE BILL 2304, SENATE DRAFT 2,
RELATING TO TOBACCO**

House Committee on Health & Human Services
The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair

Wednesday, March 14, 2018 at 8:40 a.m.
Hawaii State Capitol, Conference Room 329

Chair Mizuno, Vice Chair Kobayashi and Members of the Committee,

I am Jim Yates, President of the Hawaii Petroleum Marketers Association (“HPMA”). HPMA is a non-profit trade association comprised of members who directly market liquid motor fuel products across the Hawaiian Islands. Our membership includes individuals and companies who operate as independent marketers, jobbers or distributors of petroleum products and who buy liquid motor fuel products at the wholesale level and sell or distribute products to retail customers, other wholesalers, and other bulk consumers. HPMA’s primary purpose is to protect and advance its members’ legislative and regulatory interests in the Hawaiian Islands and Washington, DC.

SB 2304, SD 2 prohibits the issuance and renewal beyond 11/30/2019, of retail tobacco permits for businesses that are located within 500 feet of a preschool, school, or certain public playgrounds. Beginning on 12/1/2019, the bill would prohibit the sale of tobacco products and electronic smoking devices by businesses that are located within 500 feet of a preschool, school, or certain public playgrounds.

HPMA is unable to support SB 2304, SD 2, Relating to Tobacco as currently presented.

As operators of convenience stores at fueling locations, HPMA member companies fully understand the health concerns connected with tobacco products. Our members go to extraordinary lengths through their business practices and employee training to prevent the sale of tobacco products to minors. We believe SB 2304, SD 2 goes too far in prohibiting the sale of legal products to appropriate-aged consumers.

Testimony of the Hawaii Petroleum Marketers Association
In Opposition to SB 2304, SD 2, Relating to Tobacco
House Committee on Health & Humans Services
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Hawaii law already prohibits the sale of tobacco products to anyone under 21 years of age (§712-1258, HRS). Unfortunately, SB 2304, SD 2 ignores the efforts of law-abiding businesses to stem the sale of tobacco products to minors. Instead, this bill treats any sale of tobacco products as illegal when conducted within the prescribed prohibited zones. Within the urban core of Honolulu, these prohibited zones would overlap to create vacuous areas within which businesses will no longer be permitted to sell tobacco products if this bill is adopted.

HPMA would prefer to work with the Legislature and concerned stakeholders—both proponents and opponents of the bill—to craft practical legislation that safeguards Hawaii’s children and youths from using these products, while not constituting a physical taking of property without just compensation for impacted businesses, or impairing consumers’ right to access.

Thank you for this opportunity to present written testimony for the Committee’s consideration.