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**STATE OF HAWAII**  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Senate Committee on Ways and Means

Date: Friday, February 23, 2018  
Time: 11:00 A.M.  
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

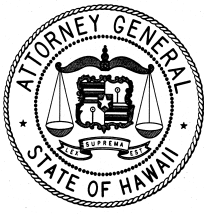
Re: S.B. 2654, S.D. 1, Relating to Chapter 245, Hawaii Revised Statutes

The Department of Taxation (Department) offers the following comments on S.B. 2654, S.D. 1 for the Committee's consideration.

S.B. 2654, S.D. 1, makes unlawful the transport of tobacco products ordered through remote sale to any address other than that of a tobacco wholesaler or dealer. S.B. 2654, S.D. 1, also expands the tax on tobacco products to include e-liquid used in electronic smoking devices. Under this bill, wholesalers and dealers of e-liquid would be subject to a tax of 70% of the wholesale price of the e-liquid, and wholesalers, dealers and retailers of e-liquid would be required to secure licenses and retail permits annually. S.B. 2654 also increases the annual fee for a tobacco license from \$2.50 per year to \$250 per year, and the annual fee for a tobacco retail permit from \$20 per location to \$50 per location. The bill is effective January 1, 2019.

The Department notes that it is able to administer the changes in this measure with its current effective date and defers to the Department of the Attorney General on Section 2 of this measure.

Thank you for the opportunity to provide comments.



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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2654, S.D. 1, RELATING TO CHAPTER 245, HAWAII REVISED STATUTES.

**BEFORE THE:**

SENATE COMMITTEE ON WAYS AND MEANS

**DATE:** Friday, February 23, 2018 **TIME:** 11:00 a.m.

**LOCATION:** State Capitol, Room 211

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Janine R. Udui,  
Deputy Attorney General, at 586-1203)

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Chair Dela Cruz and Members of the Committee:

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

The purposes of this bill are to: (1) prohibit the shipment of tobacco products to anyone other than a licensee; (2) prohibit the transport of tobacco products ordered through remote sale to anyone other than a licensee; (3) amend the definition of "tobacco products" to include "e-liquid"; (4) increase the license fees for wholesaler or dealers of cigarettes and tobacco products; and (5) increase the fees for retail tobacco permits.

The Department notes that S.B. No. 2654, S.D. 1, adds a new Hawaii Revised Statute (HRS) section to the bill in section 2, page 8, lines 15 through 20, page 9, lines 1 through 21, and page 10, lines 1 through 3, entitled "Unlawful transport of tobacco products ordered through remote sale; penalty," which may be redundant of the intent of provisions in the proposed HRS section set forth in section 2, page 6, lines 12 through 21, page 7, lines 1 through 21, and page 8, lines 1 through 14, entitled "Unlawful shipment of tobacco products; penalty; reports; liability for unpaid taxes." Accordingly, the Department recommends combining the two proposed HRS sections by incorporating the redundant provisions of the section prohibiting the unlawful transport

of tobacco products ordered through remote sale into the section relating to the unlawful shipment of tobacco products, and adding the remaining provisions as new subsections.

Accordingly, section 2, on page 8, lines 15 through 20, and page 9, lines 1 through 2, could be integrated into section 2, on page 6, lines 12 through 18, to read as follows:

**§245- Unlawful shipment of tobacco products; penalty; reports; liability for unpaid taxes.** (a) A person or entity commits the offense of unlawful shipment of tobacco products if the person or entity is engaged in the business of selling tobacco products and ships ~~tobacco products~~ or causes to be shipped, any tobacco products ~~to be shipped~~ ordered or purchased through a remote sale, to a person or entity in this State that is not:

. . . .

Similarly, redundant portions of the penalty section prohibiting the unlawful transport of tobacco products ordered through remote sale to anyone other than a licensee currently set forth in section 2, on page 9, lines 3 through 7, could be integrated into the existing provisions of S.B. No. 2654, S.D. 1, relating to the unlawful shipment of tobacco products by amending section 2, on page 8, lines 4 through 5, to be worded as follows:

(c) Any person or entity who knowingly violates this section ~~engages in the unlawful shipment of tobacco products~~ shall be guilty of a misdemeanor. Each shipment that violates or fails to comply with this section shall be a separate and distinct violation.

Should the recommended wording be incorporated as set forth above, section 2, page 8, lines 15 through 20, and page 9, lines 1 through 7, may be deleted entirely.

Moreover, subsection (c) on page 9, lines 8 through 12, may be added to section 2, on page 8, after line 14, and designated as new subsection (f).

Finally, the definitions of “internet sale” and “mail order” as set forth in subsection (d) on page 9, lines 13 through 21, and “remote sale” on page 10, lines 1 through 3, may be added to subsection (d) on page 8, lines 6 through 8, as additional definitions.

Thank you for the opportunity to provide testimony.

**VCOUNTY COUNCIL**

Mel Rapozo, Chair  
Ross Kagawa, Vice Chair  
Arthur Brun  
Mason K. Chock  
Arryl Kaneshiro  
Derek S.K. Kawakami  
JoAnn A. Yukimura



**OFFICE OF THE COUNTY CLERK**

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**Council Services Division**  
4396 Rice Street, Suite 209  
Lihu'e, Kaua'i, Hawai'i 96766

February 21, 2018

**TESTIMONY OF JOANN A. YUKIMURA  
COUNCILMEMBER, KAUAI COUNTY COUNCIL  
ON**

**SB 2654, SD1, RELATING TO CHAPTER 245, HAWAII REVISED STATUTES**  
Senate Committee on Ways and Means  
Friday, February 23, 2018  
11:00 a.m.  
Conference Room 211

Dear Chair Dela Cruz and Members of the Committee:

Thank you for this opportunity to provide testimony in support of SB 2654, SD1, Relating to Chapter 245, Hawaii Revised Statutes. My testimony is submitted in my individual capacity as a Member of the Kaua'i County Council.

SB 2654, SD1, would regulate e-liquids and electronic smoking devices (ESDs) as tobacco products through taxation, shipment, and licensing and permitting. E-cigarette use or vaping among youth and young adults has become a national public health concern. E-cigarettes is now the most popularly used tobacco product among youth and young adults, surpassing cigarettes. SB 2654, SD1, would require the permitting and licensing for the sale of e-cigarettes. Currently, this industry is unregulated and enables the sale of ESDs in places that are traditionally high traffic for youth and prominent, visible places. ESDs are the only tobacco product without a tobacco tax; increasing the price of ESDs is a proven strategy that discourages access to these products. In addition, a portion of these revenues should be dedicated to tobacco prevention and quit programs. Through regulation there can be a targeted effort to provide education to retailers towards decreasing illegal access and sales of tobacco products.

For the reasons stated above, I urge the Senate Committee on Ways and Means to support this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

JOANN A. YUKIMURA  
Councilmember, Kaua'i County Council

AMK:ct



## American Heart Association testimony in SUPPORT of SB 2654, Relating to Chapter 245, Hawaii Revised Statutes

The American Heart Association **supports** SB 2654 which makes unlawful shipment of tobacco products to anyone other than a licensee, includes e-liquid within the definition of “tobacco products,” as used in the cigarette tax and tobacco tax law, and increases the license fee for wholesalers or dealers and the retail tobacco permit fee. The AHA also recommends that a significant portion of the increased revenue from the addition of e-liquid to the state’s tobacco tax be earmarked to support State-funded tobacco prevention, education and cessation programs.

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

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

E-cigarettes are now the most popularly used tobacco product among Hawaii’s youth. According to recent Department of Health data, almost half of Hawaii’s youths have tried e-cigarettes, and 25 percent are now regular users. Those levels mirror youth cigarette use at its peak in Hawaii. This is concerning because e-cigarettes not only often contain nicotine and serve as a gateway to traditional cigarette use, but recent studies also indicate that **e-cigarette aerosol (whether or not it contains nicotine) produces fine particulate matter that leads to the same cardiovascular and respiratory risks as traditional cigarettes.**

By adding e-liquid within the definition of the state’s “tobacco products” it would apply the tobacco tax to those products. This would have the greatest impact on reducing smoking rates among the lower income and youth markets, which are more price sensitive, and which are the most highly targeted by tobacco industry marketing and advertising. Those groups also suffer the most from tobacco product use and will, consequently, benefit the most from any effective new measures to reduce tobacco use. Their health problems caused by tobacco use also disproportionately affect Medicaid costs to the state.

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Please remember the American Heart Association in your will.





In Hawaii alone, tobacco use claims 1,400 lives each year and creates \$526 million in annual health care costs (\$141.7 million of that is covered by the state Medicaid program). Hawaii residents' state & federal tax burden from tobacco-caused government expenditures is \$836 per household. Hawaii's estimated tobacco tax and license revenue, estimated to be almost \$138.8 million does not come close to offsetting the losses to the state caused by tobacco use. Smoking declines caused by state taxes directly reduce these smoking-caused economic burdens for all taxpayers, and Hawaii businesses which bear the brunt of employee healthcare costs in our state.

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. Allocating revenue generated from taxing e-liquid to community prevention, education and cessation programs would help to increase the desired impact of this legislation by further reducing the use of electronic smoking devices by our youth and the state's most health vulnerable populations.

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

Please support SB2654, SD1.

Respectfully submitted,

Donald B. Weisman  
Hawaii Government Relations/Communications Director

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

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Please remember the American Heart Association in your will.





February 21, 2018

To: The Honorable Donovan Dela Cruz, Chair  
The Honorable Gilbert Keith-Agaran, Vice Chair  
Members of the Senate Committee on Ways and Means

Re: **Strong Support for SB2654 SD1**

Hrg: February 23, 2018 at 11:00am at Capitol Room 211

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 SB2654 SD1 which would regulate disposable electronic smoking devices (ESDs) and e-liquids as tobacco products through taxation, shipment restrictions, and licensing and permitting.

E-cigarette use or vaping 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 significant public health gains made over the last decade. This is particularly concerning because e-cigarettes provide a new way to deliver the addictive 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.

Without regulation, e-cigarette manufacturers will continue to aggressively market their products by using young adults and celebrities as endorsers, glamorizing its use, promoting deep discounts, and offering popular local e-liquid flavors such as Kona coffee, Maui mango, and pineapple.

Now that the FDA has deemed ESDs as tobacco products, I urge the legislature to regulate and tax disposable e-cigarettes and e-liquid the same way as other tobacco products. ESDs are the only tobacco product without a tobacco tax and increasing the price is a proven strategy that discourages access to these products. In addition, a portion of these revenues should be dedicated to tobacco prevention and quit programs.

This bill will also require a permitting and licensing which will allow the state to know who is selling e-cigarettes in Hawai'i and work with these merchants to educate and enforce current tobacco laws.

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  
Hawai'i Public Health Association

**SB-2654-SD-1**

Submitted on: 2/22/2018 6:27:29 AM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lisa Dau	Testifying for Keiki Injury Prevention Coalition	Support	No

Comments:





# VOLCANO®

February 21, 2018

To: The Honorable Senator Donovan M. Dela Cruz, Chair  
The Honorable Senator Gilbert S.C. Keith-Agaran, Vice Chair  
Members, Senate Committee on Ways & Means

From: Cory Smith, VOLCANO eCigs®  
CEO and Owner

**RE: SB 2654 SD1 – 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 2654 SD1 for the following:

- Vapor products contain NO tobacco, and often times contain NO nicotine, and ultimately emit NO smoke. Nonetheless, **SB 2654 SD1 aims to unfairly classify all vapor products as “Tobacco Products” and deceptively refers to them as “Electronic Smoking Devices” as a way to deceive the public and to create a false perception that vapor products are the same as tobacco products** in an effort to bring vapor products into the same regulatory framework as traditional tobacco cigarettes for the purposes of taxation. This will adversely effect the vapor industry in Hawaii resulting in unintended economic and health consequences as detailed below.
- SB 2654 SD1’s justification states that the use of vapor products, specifically “E-Liquid”, carries similar health risks to that of tobacco. **However, recent studies have also shown vapor products to be as much as 95% less toxic than traditional Cigarettes.**
  - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/457102/Ecigarettes\\_an\\_evidence\\_update\\_A\\_report\\_commissioned\\_by\\_Public\\_Health\\_England\\_FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/Ecigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf)
  - <https://www.gov.uk/government/news/phe-publishes-independent-expert-e-cigarettes-evidence-review>
- Furthermore, a recent study by the National Academy of Sciences, Engineering, and Medicine stated: **“there is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users’ exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes.”** The findings add to the already



weighty body of evidence showing vaping to be far less hazardous than smoking.

- <http://www.washingtonexaminer.com/landmark-e-cigarette-report-explodes-myth-that-vaping-is-as-toxic-as-smoking/article/2646804>
- [http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-e-cigarettes.aspx?utm\\_source=Hootsuite&utm\\_medium=Dashboard&utm\\_campaign=SentviaHootsuite](http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-e-cigarettes.aspx?utm_source=Hootsuite&utm_medium=Dashboard&utm_campaign=SentviaHootsuite)
- SB 2654 SD1 exempts traditional Nicotine Replacement Therapy (NRT) products that contain nicotine even though vapor products have been shown to be a much more effective tool for helping people quit smoking and have been demonstrated to have a similar risk profile as NRT's.
  - <http://onlinelibrary.wiley.com/doi/10.1111/add.12623/abstract>
  - [http://m.circ.ahajournals.org/content/130/Suppl\\_2/A14945.short](http://m.circ.ahajournals.org/content/130/Suppl_2/A14945.short)
- The most Recent CDC report has shown e-cigarettes have supplanted all other traditional nicotine replacement therapies and are now the most commonly used product by tobacco users to quit using traditional tobacco cigarettes. Access to these products should be improved not restricted further if it is the states goal to further reduce smoking rates.
  - [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](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 2654 SD1 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 and continue to fall. Also, youth use of vapor products has been reported to be in decline since 2015 and recent studies have shown that the majority of youth who have reported using e-cigarettes are not using e-liquids that contain nicotine - further suggesting that youth who do use e-cigarettes are doing so to replace the use of traditional tobacco cigarettes.**
  - <https://www.cdc.gov/media/releases/2017/p0615-youth-tobacco.html>
  - <https://www.psc.isr.umich.edu/events/archive/feature-detail/1833>
- **SB 2654 SD1 would not successfully remove vapor products from the Internet. It would simply restrict local based businesses from competing with businesses from the 49**



**other states who would not be subject to this regulation and would result in job and revenue losses in the state.**

- Age restriction technologies are already available and can be used to prevent youth access to these products. The alcohol industry has been successful with existing technologies and something as simple as age verification or signature verification through any major shipping provider could be a workable solution that has been completely overlooked in this bill.
- Internet sales provide access to vapor products for many local customers who live in remote locations. By restricting local Internet retailers, those purchases would simply be sent to mainland-based suppliers.
- **Most troubling is the fact that by subjecting vapor products to this proposed tax, the additional costs to consumers will likely result in the state seeing less tax revenue, and even worse, former smokers returning to tobacco use. The tax will result in current vapor users purchasing from online vendors who would not be subject to state taxes. Local manufacturers, wholesalers and retailers would be put at a massive competitive disadvantage and most retail customers would send their money out-of-state effectively lowering the tax revenue already being generated by sales of vapor products here in the state.** We would be unable to compete in other out-of-state and international markets with competitors who are not subjected to the same tax, which would put our local operations in severe jeopardy meaning an immediate loss of jobs and existing revenues. This bill would also effectively reduce access to a modified risk product that has been a public health win and would simply prop up and protect the proven deadly tobacco market.

It is our belief that this unjustified regulation and tax will not serve the best interests in the state of Hawaii. Thank you for your time and consideration. If you have any questions, please feel free to contact me directly.

Sincerely,  
Cory N. Smith  
CEO & Owner  
VOLCANO Fine Electronic Cigarettes®  
1003 Bishop Street #1260  
Honolulu, HI 96813  
cory@volcanoecigs.com



Date: February 21, 2018

To: The Honorable Donovan Dela Cruz, Chair  
The Honorable Gilbert S.C. Keith Agaran, Vice Chair  
Members of the Senate Committee on Ways and Means

From: Jessica Yamauchi, Executive Director, Hawai'i Public Health Institute

Re: **STRONG SUPPORT for SB2654 SD1, Relating to Chapter 245, Hawaii Revised Statutes**

Hrg: February 23, 2018 at 11:00am at Capitol Room 211

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Thank you for the opportunity to submit testimony in **STRONG SUPPORT** of SB 2654 SD1 which restricts the shipment of tobacco products to anyone other than a licensee, includes e-liquids in the definition of tobacco products, thereby establishing a tax on e-liquids and requires wholesalers and retailers to obtain a tobacco permit and license.

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 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.

**1. Electronic smoking devices and all of its components and parts, including e-liquid are tobacco products.**

- As defined in Hawaii Revised Statutes §328J-1: "Electronic smoking device" means any electronic product that can be used to aerosolize and deliver nicotine or other substances to the person inhaling from the device, including but not limited to an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, hookah pipe, or hookah pen, and any cartridge or other component of the device or related product, whether or not sold separately.
- As defined federally by the FDA<sup>i</sup> in 2016: "FDA now regulates the manufacture, import, packaging, labeling, advertising, promotion, sale, and distribution of Electronic Nicotine Delivery Systems (ENDS), including components and parts of ENDS but excluding accessories. Examples of components and parts of ENDS include: E-liquids, A glass or plastic vial container of e-liquid, Cartridges, Atomizers, Certain batteries, Cartomizers and clearomizers, Digital display or lights to adjust settings, Tank systems, Drip tips, Flavorings for ENDS, and Programmable software."

**2. A tax should be established on all e-liquids, whether or not they contain nicotine for public health concerns.**

- There is no public health reason to exempt nicotine-free e-liquids from any tax. In a 2015 study<sup>ii</sup> of more than 58 million e-cigarette units found that 99% of these contained nicotine, whether or

not they were labeled as zero nicotine or nicotine-free. This is evidence that we cannot rely on self-reported information on nicotine content alone. Placing a tax on all e-liquids will also allow the Department of Taxation to administer the tax using the current systems without the burden of having to test whether or not e-liquids are in fact nicotine-free.

- Electronic smoking devices (ESDs) are the only tobacco product without a tobacco tax. In a poll<sup>iii</sup> conducted by Ward Research Inc. for the Coalition in November 2018, 81% of registered Hawai'i voters were in support of taxing e-cigarettes at the same rate as cigarettes or other tobacco products. Because ESDs are not subject to current State tobacco tax laws, they are seen as lower-priced tobacco alternatives with virtually no restrictions that can be appealing to the youth.

**3. ESD and vaping among youth in Hawaii are at an all-time high with up to 50.7% in Maui county and 42.3% statewide.**

- According to the 2017 Hawai'i Youth Risk Behavior Survey –

<b>Tobacco and Vapor Product Use in Hawaii – High School and Middle School</b>										
	State		Hawaii		Honolulu		Kauai		Maui	
	HS	MS	HS	MS	HS	MS	HS	MS	HS	MS
Ever tried using electronic vapor products	42.3%	27%	49.6%	35.8%	39%	23.8%	45.3%	30.0%	50.7%	32.1%
First tried using an electronic vapor product before age 13 years	9.0%	N/A	10.7%	N/A	8.0%	N/A	11.2%	N/A	11.2%	N/A
Used an electronic vapor product in the past 30 days	25.5%	15.7%	34.1%	23.0%	22.0%	13.4%	31.3%	18.5%	32.3%	18.3%

- Because they remain unregulated, e-cigarette companies have aggressively marketed their products by glamorizing their use, using celebrities and young adults as endorsers, and making false health claims.
- A 2016 report by the Surgeon General concluded that e-cigarettes are dangerous and a health threat to youth and young adults<sup>iv</sup>.

**4. Hawai'i has one of the lowest tobacco license and retailer fees in the nation.**

- The license fee for wholesalers and dealers is only \$2.50 a year, while retail tobacco permit fees cost only \$20 a year. Nationally, license fees in 38 states range from \$200 to \$1500. Permit fees in 32 states range from \$20 to \$1,000. **The Coalition supports increasing the wholesaler and dealer license fee to \$250.00 and the retail tobacco permit fee to \$50.00.** In comparison with other fees, the annual wholesale liquor license for the City and County of Honolulu is \$2,640.

**5. ESD are currently not required to obtain a tobacco permit or license in order to sell these products.**

- Currently, there is no database that tracks who is selling ESDs in the state, making it difficult for state agencies to educate merchants and enforce our Tobacco 21 law, which includes prohibiting the sale of ESDs to anyone under the age of 21. Without permitting and licensing, store density and distribution of these products will only continue to grow.

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

- Online ESD sellers simply ask users to click a button to verify their age – a process that is both ineffective and inadequate. This measure helps to correct this loophole by requiring that ESD products be shipped to a registered and licensed seller allowing the State to enforce current tobacco selling and taxation laws.

## 7. The Coalition further recommends that a portion of the revenue collected from ESD and e-liquid taxes be dedicated to tobacco prevention and quit programs.

- The same statewide poll found that 89% of registered Hawaii voters overwhelmingly agree that it is important for the State to earmark some of the revenue to programs aimed at preventing tobacco use among kids and to helping smokers quit. Currently no revenue from cigarette or OTP taxes is appropriated for tobacco prevention and cessation. When the price of tobacco increases, more people seek help to quit and we need to ensure programs are available and accessible by the public to help them quit.

The U.S. Surgeon General issued an immediate call to action for all local and state government to enact policies that address the harmful impact of e-cigarettes. Hawai'i has already made enormous progress on tobacco control and we ask the legislature to take the necessary steps to reduce the negative health impact made by e-cigarettes and other emerging tobacco products.

Thank you for the opportunity to testify. We strongly support SB2654 SD1 and respectfully ask you to pass this measure out of committee.

Mahalo,



Jessica Yamauchi, MA  
Executive Director, HIPHI

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<sup>i</sup> U.S. Food & Drug Administration, "Vapors, E-Cigarettes, and other Electronic Nicotine Delivery Systems (ENDS)." from <https://www.fda.gov/TobaccoProducts/Labeling/ProductsIngredientsComponents/ucm456610.htm#regulation>

<sup>ii</sup> Kristy L. Marynak, Doris G. Gammon, Todd Rogers, Ellen M. Coats, Tushar Singh, Brian A. King, "Sales of Nicotine-Containing Electronic Cigarette Products: United States, 2015", American Journal of Public Health 107, no. 5 (May 1, 2017): pp. 702-705. via [http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2017.303660?url\\_ver=Z39.88-2003&rfr\\_id=ori%3Arid%3Acrossref.org&rfr\\_dat=cr\\_pub%3Dpubmed&](http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2017.303660?url_ver=Z39.88-2003&rfr_id=ori%3Arid%3Acrossref.org&rfr_dat=cr_pub%3Dpubmed&)

<sup>iii</sup> 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.

<sup>iv</sup> 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](https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Exec_Summ_508.pdf)

**SB-2654-SD-1**

Submitted on: 2/22/2018 8:51:44 AM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Johnathon Myers	Testifying for Cigar Rights of America	Oppose	No

Comments:

I strongly OPPOSE prohibiting Internet sales of cigars, e-cigarette, tobacco products. There are plenty of Laws in place already in the State of Hawai'i that prevent youth from purchasing tobacco products--enforce them. There are plenty of Laws in place to tax online sales of purchased products--enforce them. The State of Hawai'i does not need to legislate adults' online purchasing. I am a staunch supporter of the #SUPPORTLOCAL movement in Hawai'i, but this proposed Bill is a clear example of Government overreach--especially on an island with limited resources/retailers. I strongly OPPOSE the increase in the license fee from \$2.50 to \$500, as well as stongly OPPOSE the increase in the retail tobacco permit from \$20 to \$50.

**SB-2654-SD-1**

Submitted on: 2/22/2018 10:22:05 AM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
PHC HNL	Testifying for 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 increase tobacco product price points are a proven strategy to decrease use and adverse health impacts. We urge the legislature to the same to regulate and tax disposable e-cigarette and e-liquid. We feel it's important that a portion of the revenue generated by such a tax should be dedicated to tobacco prevention and quit programs.

This bill will also require a permitting and licensing which will allow the state to know who is selling e-cigarettes in Hawai'i and work with these merchants to educate and enforce current tobacco laws.

We strongly support SB2654 SD1 and ask you to pass this out of committee.

Thank you very much for allowing us to testify:

May Okihiro

Michael Broderick



Daniel Leung

Tina Tamai

Diane Tabangay

Jennifer Dang

Paula Adams

Ray L'Heureux

Michael Libertini

Testimony:

Date: February 21, 2018

To: Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S. C. Keith-Agarian, Vice Chair  
Members of the Senate Committee on Ways and Means

Re: Strong Support of SB2654, Relating to Chapter 245, Hawaii Revised Statutes

Hrg: February 23, 2018 at 11:00 AM at Capitol Conference Room 211

I strongly support SB2654, which would regulate e-liquids and electronic smoking devices (ESDs) as tobacco products through taxation, shipment, and licensing and permitting.

I support this bill because of findings from our research with Hawaii adolescents conducted over the past 4 years. These studies have shown that e-cigarette use is quite prevalent among Hawaii middle and high school students, in recent years over 40% of high school students having used e-cigarettes. Even at younger ages, the prevalence among middle school students can be 15-20% of the school population.

In addition to showing that e-cigarette use is prevalent among Hawaii school students, our studies have shown that e-cigarette use is linked to several adverse outcomes. Notably, using e-cigarettes is related to initiation of cigarette smoking among previous nonsmokers, hence is contributing to undesirable outcomes. Our findings from Hawaii have been reported in national and international scientific journals such as JAMA Pediatrics and have been confirmed in several different US sites as well as in Britain, Finland, Canada, and Mexico.

Our research has also shown that e-cigarette use is related to a higher likelihood of asthma among Hawaii adolescents and young adults. This has recently been reported in the scientific journal Preventive Medicine and our findings have now been confirmed in three Hawaii studies. Thus there is now evidence that e-cigarette use may be linked to adverse health consequences as well as adverse behavioral consequences such as smoking initiation.

We have observed that e-cigarettes are aggressively marketed to Hawaii youth in television, print media, radio, and point-of-sale advertising venues. Without regulation, e-cigarette manufacturers will continue to aggressively market their products by using young adults and celebrities as endorsers, glamorizing its use, promoting deep discounts, and offering popular local e-liquid flavors such as Kona coffee, Maui mango, and pineapple.

Because of the adverse consequences that are known to be related to e-cigarette use, I urge the legislature to regulate and tax e-cigarettes the same way as other tobacco products. ESDs are the only tobacco product without a tobacco tax and increasing the price is a proven strategy that discourages access to these products. In addition, a portion of these revenues should be dedicated to tobacco prevention and quit programs. This bill will also require a permitting and licensing

which will allow the state to know who is selling e-cigarettes in Hawaii and work with these merchants to educate and enforce current tobacco laws.

I strongly support SB2654 and ask you to pass this.

Yours sincerely,

Thomas A. Wills, Ph.D.  
Director, Cancer Prevention in the Pacific Program  
University of Hawaii Cancer Center

**SB-2654-SD-1**

Submitted on: 2/21/2018 11:59:28 AM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles F Ah Nee Bahn	Individual	Support	No

Comments:

Regulating electronic smoking devices (ESDs), Electronic Nicotine Delivery systems (ENDs), also called e-cigarettes, is critical to protecting public health, specifically the public health of people who live in Hawaii and prevent youth initiation and nicotine addiction.

In 2016, ESDs were deemed as tobacco products by the FDA. Yet somehow they remain unregulated in Hawai'i and are the only tobacco product without a tobacco tax in the state. [SB2654 SD1](#) would apply a tax to disposable ESDs and e-liquid, require licensing and permitting for wholesalers and retailers, and create online shipment restrictions to consumers.

This needs to change and I want you to know that I support this measure.

**SB-2654-SD-1**

Submitted on: 2/21/2018 1:04:31 PM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
C. Azelski	Individual	Support	No

Comments:

ESDs were deemed as tobacco products by the FDA in 2016, but they remain unregulated in Hawai'i and are the only tobacco product without a tobacco tax in the state. Please apply a tax on disposable ESDs and e-liquids and require retailers and wholesalers to be permitted and licensed.

Date: February 21, 2018

To: The Honorable Donovan Dela Cruz, Chair  
The Honorable Gilbert Keith-Agaran, Vice Chair  
Members of the Senate Committee on Ways and Means

Re: **SUPPORT for SB2654 SD1**, Relating to Chapter 245, Hawai'i Revised Statutes

Hrg: February 23, 2018 at 11:00am at Capitol Room 211

Respected Members of the Senate Committee on Ways and Means,

I am writing in strong **SUPPORT of SB2654 SD1** that would regulate disposable electronic smoking devices (ESDs) and e-liquids as tobacco products through taxation, shipment restrictions, and licensing and permitting.

Use of ESDs among youth and young adults has become a national public health concern. ESDs are now the most popularly used tobacco product among youth and young adults, surpassing cigarettes. While cigarette smoking rates in Hawai'i have decreased through the years, ESD vaping has rapidly increased, threatening significant public health gains made over the last decade. This is particularly concerning because ESDs provide a new way to deliver the addictive 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.

In addition, research in humans now clearly demonstrates that inhaling the aerosol (vapor) from ESDs causes damage to the respiratory and cardiovascular systems even if e-liquids contain no nicotine.

Without regulation, ESD manufacturers will continue to aggressively market their products by using young adults and celebrities as endorsers, glamorizing their use, promoting deep discounts, and offering popular local e-liquid flavors such as Kona coffee, Maui mango, and pineapple.

Now that the FDA has deemed ESDs as tobacco products, I urge the legislature to regulate and tax disposable ESDs and e-liquid the same way as other tobacco products. ESDs are the only tobacco product without a tobacco tax and increasing the price is a proven strategy to reduce use. In addition, a portion of these revenues should be dedicated to tobacco prevention and quit programs.

This legislation will also require permitting and licensing which will allow the state to know who is selling e-cigarettes in Hawai'i and work with these merchants to educate and enforce current tobacco laws.

I strongly **support SB2654 SD1** and respectfully ask you to pass this bill out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD  
Keaau, HI

**SB-2654-SD-1**

Submitted on: 2/21/2018 2:02:57 PM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Scott Stensrud	Individual	Support	No

Comments:

I am writing today in strong support of SB 2654 which makes unlawful shipment of tobacco products, and transport of tobacco products ordered or purchased through a remote sale, to anyone other than a licensee, including e-liquid within the definition of "tobacco products", as used in the cigarette tax and tobacco tax law. This makes all provisions of the cigarette tax and tobacco tax law that relate to tobacco products applicable to e-liquid as well.

As someone that is an active volunteer with youth in Hawaii I see kids as young as middle school using vaping products. When asked how they buy these products you often hear online. Hawaii needs to close the loop hole and protect our children from the aggressive marketing tactics of vaping products and ban the online sale in Hawaii. This does not place a major inconvenience on adults yet helps protect our youth. Hawaii while having some of the lowest smoking rates in the country is seeing an alarming increase in the use of vaping products by kids, in particular at the Middle School level where we are among the highest in the nation.

Please support SB 2654

Sincerely,

Scott Stensrud

Kapolei, HI



**SB-2654-SD-1**

Submitted on: 2/21/2018 4:08:20 PM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

**SB-2654-SD-1**

Submitted on: 2/21/2018 5:48:23 PM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Stephanie Austin	Individual	Support	No

Comments:

**SB-2654-SD-1**

Submitted on: 2/21/2018 6:09:46 PM

Testimony for WAM on 2/23/2018 11:00:00 AM

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

Comments:

**SB-2654-SD-1**

Submitted on: 2/21/2018 6:11:17 PM

Testimony for WAM on 2/23/2018 11:00:00 AM

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

Comments:

**SB-2654-SD-1**

Submitted on: 2/21/2018 6:30:51 PM

Testimony for WAM on 2/23/2018 11:00:00 AM

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

Comments:

**SB-2654-SD-1**

Submitted on: 2/21/2018 6:41:37 PM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dallas Nelson	Individual	Oppose	Yes

Comments:

This bill is so nasty to people that vape. Vaping helps people's health - bill 2654 lacks logic.

**SB-2654-SD-1**

Submitted on: 2/21/2018 8:52:53 PM

Testimony for WAM on 2/23/2018 11:00:00 AM

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

Comments:

**SB-2654-SD-1**

Submitted on: 2/22/2018 7:40:38 AM

Testimony for WAM on 2/23/2018 11:00:00 AM

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

Comments:



**SB-2654-SD-1**

Submitted on: 2/22/2018 8:03:58 AM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John A. H. Tomoso	Individual	Support	No

Comments:

02/22/18

Aloha mai,

I am testifying in support of SB2654 SD1, which would regulate ESDs by applying a tax on disposable ESDs and e-liquids. More importantly I thini, is that this bill would require retailers and wholesalers to be permitted and licensed. ESDs were deemed as tobacco products by the FDA in 2016, but they remain unregulated in Hawai'i and are the only tobacco product without a tobacco tax in the state. I find this to be a serious threat to the public health of Hawai'i and to the quality of life we all share.

Me ka 'oia'i'o,

John A. H. Tomoso +, MSW, ACSW, LSW

51 Ku'ula Street, Kahului, Mui, Hawai'i 96732-2906

808-280-1749

john.a.h.tomoso@gmail.com

CC: CTFH-Maui, HPHA-Maui, Maui County Legislators

**SB-2654-SD-1**

Submitted on: 2/22/2018 8:41:48 AM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mariner Revell	Testifying for Irie Hawaii	Oppose	No

Comments:

I oppose SB2654 ecigs and eliquid are not tobacco products classifying them as so will put the lives of smokers at risk. Ecigs help hundreds of thousands of people every year. This bill will put the lives of smokers at risk! I know, you have heard this arguement before, however now The American Cancer Society now supports Ecigs!

Many of you argue these anti ecig laws are to protect the public from the potential hazards of ecigs. Last week The American Cancer soccirty changed their psition on ecigs, the ACS now supports ecigs as a safer alternative for quitting tobacco use. Please see the official statement by the ACS here <https://www.cancer.org/healthy/stay-away-from-tobacco/e-cigarette-position-statement.html>

Aloha,

I am testifying in support of SB2654 SD1, which would regulate ESD's by applying a tax on disposable ESDs and e-liquids. I support that this bill would require retailers and wholesalers to be permitted and licensed. ESD's were deemed as tobacco products by the FDA in 2016, but they remain unregulated in Hawai'i and are the only tobacco product without a tobacco tax in the state. I find this to be a serious threat to the public health of Hawai'i and to the quality of life we all share.

Best,

Lauren Loor

**SB-2654-SD-1**

Submitted on: 2/22/2018 9:32:53 AM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dan Domizio	Individual	Support	No

Comments:

Aloha!

Regulating "electronic cigarettes" as we do tobacco products is an essential step in reducing the harm these products do to anyone using one. As these are seen as especially "cool" by the young adults (AND minors when they can get one) who use them. They are habituating and harmful. We must do everything we can to inhibit their use.

I urge the legislature to support regulation

Thank you for this opportunity to offer testimony.

Dear Senate Committee on Ways and Means,

The Honorable Donovan Dela Cruz, Chair

The Honorable Gilbert Keith-Agaran, Vice Chair Members of the Senate Committee on Ways and Means

Hrg: February 23, 2018 at 11:00am at Capitol Room 211

I strongly support SB2654 SD1 which would regulate disposable electronic smoking devices (ESDs) and e-liquids as tobacco products through taxation, online shipment restrictions, and licensing and permitting.

E-cigarette use or vaping 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 Hawai'i have decreased through the years, ESD use has rapidly increased, threatening significant public health gains made over the last decade. This is particularly concerning because e-cigarettes provide a new way to deliver the addictive 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.

Without regulation, e-cigarette manufacturers will continue to aggressively market their products by using young adults and celebrities as endorsers, glamorizing its use, promoting deep discounts, and offering popular local e-liquid flavors such as Kona coffee, Maui mango, and pineapple.

Now that the FDA has deemed ESDs as tobacco products, I urge the legislature to regulate and tax disposable e-cigarettes and e-liquid the same way as other tobacco products. ESDs are the only tobacco product without a tobacco tax and increasing the price is a proven strategy that discourages access to these products. In addition, a portion of these revenues should be dedicated to tobacco prevention and quit programs.

This bill will also require a permitting and licensing which will allow the state to know who is selling e-cigarettes in Hawai'i and work with these merchants to educate and enforce current tobacco laws.

I strongly support SB2654 SD1 and ask you to pass this out of committee.

Elijah Todd-Walden	Carol Ignacio	Cristeta Ancog	Kathleen Hagan
Michelle Schiffli	Helen Barrow	Alan Trinh	Ronald Kuriki
Jennifer Hausler	Debbie Apolo	Allison Seales	Stephanie Abe
Jen Azuma Chrupalyk	Elizabeth Tam	Annalise Busekrus	Sharon Hicks
Michelle Gray	Marilyn Gagen	Mary Santa Maria	Kathryn Braun
John Ishoda	Christopher La Chica	Curtis Palmer	Leila Ventar
Mealani Rahmer	Aly Hite	Kathleen Corpuz	Erin Bantum
Judy Iwamoto	Shay Chan Hodges	Pualei Kaohelaulii	Alyson Borrego
Dale Cole	Emi Orikasa	Cynthia Chow	Chris Fukui
Patricia Fleck	Jenna Lee	Mae Kyono	Mark Levin
Alohalyn Espejo	Barbara Nosaka	Bev Brody	Charles Racsa
Michael Kellar	Tyler Ralston	Stephanie Moir	Stephen Harris
Patricia Blair	Tiare Lawrence	Jan-Marie Osorio	Javier Mendez
Keawe Kaholokula	Valerie Yontz	Kim Nichols	Kahala Howser