

Honolulu, Hawaii

FEB 15 2019

RE: S.B. No. 1244

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 1244 entitled:

"A BILL FOR AN ACT RELATING TO THE SALE OF TOBACCO PRODUCTS,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that liability for illegally selling tobacco products including an electronic smoking device, to a person under the age of twenty-one is borne by the retail entity or individual who holds a valid permit to sell tobacco products, rather than an employee.

Your Committee received testimony in support of this measure from the Department of Health, Hawai'i Public Health Institute, Black Lava Vape, Blue Zones Project, Ho'omanapono Political Action Committee, and six individuals. Your Committee received testimony in opposition to this measure from Retail Merchants of Hawaii, Hawaii Smokers Alliance, and twenty-four individuals. Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that ninety-five percent of smokers start smoking before they turn twenty-one; therefore, preventing the sale of tobacco products to minors below the age of twenty-one may reduce smoking initiation in children and teens. Under existing law, selling tobacco products and electronic smoking devices to minors is prohibited and results in a fine. However,



there is confusion about whether the retailer, tobacco product permittee, electronic smoking device registration holder, or the employee who conducted the prohibited transaction receives the penalty for the violation. This measure clarifies that penalties shall be imposed not on employees but on the retailers and permittees who are best placed to impose effective best practices in their retail locations to ensure that sales to underage customers do not reoccur. Your Committee further finds that clearly placing penalties on the retailer or permittee aligns Hawaii with United States Food and Drug Administration policy, which addresses warning letters on inspection violations and corrective actions to the retailers, and not employees.

Your Committee has amended this measure by:

- (1) Clarifying that the entities that bear the liability for the illegal sale of tobacco products to persons under the age of twenty-one include registrants required to register with the electronic smoking device retailer registration unit; and
- (2) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1244, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1244, S.D. 1, and be referred to your Committee on Judiciary.

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



ROSALYN H. BAKER, Chair



