

STAND. COM. REP. NO.

1017

Honolulu, Hawaii

MAR 01 2019

RE: S.B. No. 1244
S.D. 2

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

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1244, S.D. 1, 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 and electronic smoking devices to persons under twenty-one years of age is borne by the retail entity, entity that holds a retail tobacco permit, or entity registered to sell electronic smoking devices, as opposed to an employee.

Your Committee received testimony in support of this measure from the Department of Health, Blue Zones Project-Hawaii, Hawaii COPD Coalition, Coalition for a Tobacco-Free Hawai'i, and three individuals. Your Committee received testimony in opposition to this measure from Retail Merchants of Hawai'i, Hawaii Smokers Alliance, and eleven individuals.

Your Committee finds that under existing law, any person who sells tobacco products or electronic smoking devices to persons under twenty-one years of age in violation of section 712-1258, Hawaii Revised Statutes, shall be fined. Currently, it is unclear whether the retailer, tobacco product permittee, electronic smoking device registration holder, or the employee who unlawfully sold the tobacco products and electronic smoking devices is



responsible for the fine. Your Committee further finds that making retailers, tobacco product permittees, and electronic smoking device registration holders liable for the actions of their employees in conducting unlawful sales to minors provides an incentive for retailers, tobacco product permittees, and electronic smoking device registration holders to comply with tobacco sales laws. This measure clarifies that penalties shall not be imposed on employees but on retailers, tobacco product permittees, and electronic smoking device registration holders as they are best placed to ensure that Hawaii's tobacco sales are being upheld at the point of sale.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1244, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1244, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 1244 SD1	Committee Referral: CPH, JDC	Date: 2/26/19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
WAKAI, Glenn (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
FEVELLA, Kurt				✓
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes