



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

**Testimony COMMENTING on H.B. 1395, HD1
RELATING TO SMOKING**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: February 26, 2019

Room Number: 308

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) defers to the Department of
3 Education (DOE) regarding implementation and enforcement of this measure.

4 House Bill 1395, House Draft 1 (H.B. 1395, HD1) proposes to amend §302A-102, HRS,
5 by adding subsections: (b) directing a \$100 fine for persons over age 21 years of age who violate
6 subsection (a) by smoking in public schools or public school functions and authorizes the DOE
7 to adopt rules for students who violate subsection (a) that are non-monetary and pursuant to
8 chapter 91; and (c) that does not allow the fine to be waived or suspended.

9 Tobacco free policies are already in place for public schools pursuant to [Chapter 31,](#)
10 [Board of Education \(BOE\) Hawaii Administrative Rules \(HAR\)](#), and defers to the DOE on
11 whether penalties are necessary for violation of the BOE HAR by persons over 21 years of age.

12 The Department does recommend H.B. 1395, HD 1 as a prevention strategy. Laws that
13 focus on penalizing young people for tobacco use or possession deviate from recommended
14 youth oriented best practices and detract from more effective enforcement measures. Such laws
15 unfairly punish and stigmatize young people who are becoming addicted to nicotine as a result of
16 the tobacco industry's aggressive marketing.¹ Policies that penalize young people for possession
17 or purchase are favored by the tobacco industry to deflect public policies away from more
18 effective prevention policies to prevent access and regulate tobacco products.

¹ Campaign for Tobacco-Free Kids. Youth Access Laws That Penalize Kids for Purchase, Use, or, Possession Are Not Proven to Reduce Tobacco Use. September 19, 2018.

1 The Department continues to focus on prevention strategies and partnering with the DOE,
2 Hawaii Association of Independent Schools, other school organizations, and community groups
3 to urgently address the youth vaping epidemic in Hawaii. The collaboration between state and
4 community organizations is providing resources, tools, information and training for teachers,
5 parents, and other youth influencers about the harmful risks and dangers of vaping and the
6 marketing of ESDs to young people. Social media messages by youth for youth to counter the
7 marketing by the tobacco industry is an integral component of the overall effort.

8 Thank you for the opportunity to comment.

9 **Offered Amendments:** None



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/13/2019
Time: 02:00 PM
Location: 325
Committee: House Judiciary

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: HB 1395, HD1 RELATING TO SMOKING.

Purpose of Bill: Establishes a \$100 fine for underage persons who smoke on public-school property or at public-school functions.

Department's Position:

The Department of Education (Department) offers comments on HB 1395:

The Department's highest priority is the safety and well-being of students. As such, the Department is working in partnership with the Hawaii State Department of Health (DOH) to educate youth to make positive decisions about their health. In raising awareness about the risks and dangers of tobacco products and electronic smoking devices (ESDs), the Department's efforts focus on the following:

- Prevention and education regarding the harmful effects of tobacco and ESDs;
- Collaborating with DOH on the collection of Youth Risk Behavior Survey (YRBS) data on Hawaii's youth and their usage of tobacco and ESDs;
- Promoting public awareness of Section 712-1258, Hawaii Revised Statutes (HRS), which makes it unlawful for anyone under the age of 21 years of age to be sold, purchase, use, or possess tobacco products and ESDs;
- Statewide social media campaign (Facebook, Twitter, LinkedIn, Pinterest) to educate staff, students and families on the risks and dangers of the use of tobacco products and ESDs; and
- Monitoring students for compliance or violations of Title 8, Chapter 19, Hawaii Administrative Rules (HAR) Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism (Chapter 19) incidents, as it relates to the use of tobacco products and ESDs.

There is zero tolerance for tobacco products and ESDs on Department of Education campuses, transportation, and/or during sponsored activities. In addition, any tobacco product(s) or ESDs found in a student's possession is a violation of Chapter 19 is seized by the school

administration, and is forfeited to law enforcement in accordance with Section 712-1258, HRS.

Therefore, the Department respectfully suggests that it is fully engaged in tobacco product and ESD-related prevention education, maintains sufficient statutory and administrative authority related to the use and possession of these products, and ensures appropriate consequences for students in violation of Hawaii's laws and Department rules. As such, this measure should be deferred.

000000

Thank you for the opportunity to provide testimony on HB 1395.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.

Council Chair
Kelly T. King

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Alice L. Lee
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Maria E. Zielinski

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

February 25, 2019

TO: The Honorable Sylvia Luke, Chair
House Committee on Finance

FROM: Kelly T. King
Council Chair

Handwritten signature of Kelly T. King in cursive.

SUBJECT: **HEARING OF FEBRUARY 26, 2019; TESTIMONY IN SUPPORT WITH REVISIONS OF HB 1395, HD1, RELATING TO SMOKING**

Thank you for the opportunity to testify in **support with revisions** of this important measure. The purpose of this bill is to establish a \$100 fine for persons over 21 who smoke on public-school property or at public-school functions.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure with revisions for the following reasons:

1. This measure would allow the State to take more proactive measures in combating the leading cause of preventable disease and death in the United States and in Hawaii: tobacco use.
2. Tobacco use continues to be a public-health problem in Hawaii, causing approximately 1,400 deaths per year, costing approximately \$526 million in direct healthcare expenditures, and resulting in \$387 million of lost productivity.
3. The U.S. Centers for Disease Control found 25.3 percent of high-school students in Hawaii used electronic-smoking devices, with the Maui County rate at 31.8 percent.
4. I would suggest revising this measure to require a \$100 fine to persons over 18 years of age, instead of 21.

For the foregoing reasons, I **support** this measure **with revisions**.

HB-1395-HD-1

Submitted on: 2/25/2019 4:00:56 PM

Testimony for FIN on 2/26/2019 12:30:00 PM

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

Comments:

Those over 18 have a right to smoke outdoors and on all private property (owner permitting).



HIPHI Board

Michael
Robinson, MBA, MA
Chair
Hawaii Pacific Health

Mark Levin, JD
Secretary
William S. Richardson School
of Law

Kilikina Mahi, MBA
Treasurer
KM Consulting LLC

Joy Barua, MBA
Kaiser Permanente

Forrest Batz, PharmD
Retired, Daniel K. Inouye
College of Pharmacy

Debbie Erskine
Kamehameha Schools

Keawe'aimoku
Kaholokula, PhD
John A. Burns School of
Medicine, Department of
Native Hawaiian Health

Bryan Mih, MD, MPH
John A. Burns School of
Medicine, Department of
Pediatrics

Rachel Novotny,
PhD, RDN, LD
University of Hawaii at Manoa,
College of Tropical Agriculture
and Human Resources

Catherine Taschner, JD
McCorriston Miller Mukai
MacKinnon LLP

JoAnn Tsark, MPH
John A. Burns School of
Medicine, Native Hawaiian
Research Office

En Young, MBA
Sansei, Lanai

Date: February 25, 2019

To: Representative Sylvia Luke, Chair
Representative Ty Cullen, Vice Chair
Members of the Finance Committee

Re: Comments on HB1395 HD1, Relating to Smoking

Hrg: February 26, 2019 at 12:30pm at Conference Room 325

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ respectfully provides the following comments on **HB1395 HD1** which would penalize persons over 21 who use tobacco at public schools and public school functions.

The Coalition previously opposed the original draft, HB1395 which would which would penalize underage persons who use tobacco at public schools and public school functions. There is no public health reason to criminalize a child for falling victim to an industry that continues to offer tobacco products that are appealing to children.

State law already prohibits smoking in public school buildings under **[§328J-2] Prohibition in facilities owned by the State or the counties**, which includes the following penalty:

[§328J-12] Penalties. (a) A person who smokes in an area where smoking is prohibited by this chapter shall be guilty of a violation and fined not more than \$50 to be deposited into the general fund. The district courts may assess costs not to exceed \$25 for issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to the person.

The Coalition supports all efforts to decrease exposure to toxic secondhand smoke, but defers to the Department of Education and the enforcement agency on the implementation of this law.

There is no safe level of exposure to secondhand smoke or vape. The level of air pollution from a cigarette is so severe that breathing it is dangerous for anyone, but especially for children. Secondhand smoke has more than 7,000 chemicals, at least 70 of which are known to cause cancer. Further, the 2016 U.S. Surgeon General Report has determined that emissions from e-cigarettes are not harmless. "It can

contain harmful and potentially harmful chemicals, including nicotine; ultrafine particles that can be inhaled deep into the lungs; flavoring such as diacetyl, a chemical linked to a serious lung disease; volatile organic compounds such as benzene, which is found in car exhaust; and heavy metals, such as nickel, tin, and lead.”ⁱⁱ

Tobacco use and exposure to secondhand smoke in any form causes serious health risks such as cancer, heart disease, and respiratory illness. Restricting tobacco and e-cigarette use throughout a campus reduces these risks and promotes the health and well-being of members of the entire campus community. Having a campus-wide policy also helps to reduce the youth initiation to tobacco products, including electronic smoking devices. In addition, smoke-free policies economically benefit the public school system by contributing to reduced health care costs and employee absenteeism, as well as increased productivity and cost savings associated clean-up of cigarette litter.

The Coalition understands that the original intent of the bill aims to address the youth vaping epidemic and recommends consideration of other measures to decrease youth use of tobacco products.

Hawaii is already experiencing a youth vaping epidemic. Instead of treating children as the wrongdoers, the focus must be on passing laws that counter the tobacco industry’s targeted marketing to kids. Current measures are being proposed in the 2019 legislature to deter and decrease tobacco youth initiation and continued use such as ending the sale of candy flavored tobacco, establishing a tax on e-cigarette products, and restricting online sales.

Mahalo,



Trish La Chica, MPA
Policy and Advocacy Director

ⁱ 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 Hawai’i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

ⁱⁱ Know The Risks, E-Cigarettes and Young People, from: <https://e-cigarettes.surgeongeneral.gov/knowtherisks.html>



**American
Heart
Association.**

American Heart Association Testimony in Support of HB 1395, HD1, “Relating to Smoking”

Chairman of the Board

Mark Yamakawa

President

Kahealani Rivera, MD

Board Members

Rick Bruno, MD, FACEP

Brandt Farias

Mimi Harris

David Honma

Glen Kaneshige

Brandon Kurisu

Howard Lee

Michael Lui, MD

Kazuma Nakagawa, MD,

FAAN, FAHA

Barbara Petrus

Andrew Rosen

Dave Underriner

Elisa Yadao

The American Heart Association support HB 1395, HD1.

The proposed bill would strengthen §302A-102 which bans the use of tobacco products on school grounds or at school events by adding a financial disincentive to violating the law.

Respectfully submitted,

Don Weisman

Hawaii Government Relations/Communications Director

Serving Hawaii since 1948

Mission Statement:

“To be a relentless force
for a world of longer,
healthier lives.”

For more information on
the AHA’s educational or
research programs, visit
www.heart.org or contact
your nearest AHA office.

Office: (808) 377-6630

Fax: (808) 524-0556

Neighbor Islands:

Serviced by the Oahu
office

HB-1395-HD-1

Submitted on: 2/23/2019 10:27:55 PM

Testimony for FIN on 2/26/2019 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Santiago	Individual	Oppose	No

Comments:

HB-1395-HD-1

Submitted on: 2/24/2019 10:16:17 AM

Testimony for FIN on 2/26/2019 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jason Park	Individual	Oppose	No

Comments:

HB-1395-HD-1

Submitted on: 2/24/2019 1:20:38 PM

Testimony for FIN on 2/26/2019 12:30:00 PM

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

Comments:

HB-1395-HD-1

Submitted on: 2/24/2019 5:45:37 PM

Testimony for FIN on 2/26/2019 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Wells	Individual	Oppose	No

Comments:

Adults have a right to smoke.

HB-1395-HD-1

Submitted on: 2/24/2019 8:03:32 PM

Testimony for FIN on 2/26/2019 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicholas Winters	Individual	Oppose	No

Comments:

HB-1395-HD-1

Submitted on: 2/25/2019 11:35:13 AM

Testimony for FIN on 2/26/2019 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Patterson	Individual	Oppose	No

Comments:

HB-1395-HD-1

Submitted on: 2/25/2019 2:55:16 PM

Testimony for FIN on 2/26/2019 12:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lani Hernandez	Individual	Oppose	No

Comments:

No ban for adults.