



**Testimony to the House Committee on Health  
Tuesday, February 4, 2020; 8:30 a.m.  
State Capitol, Conference Room 329**

**RE: HOUSE BILL NO. 2348, PROPOSED HOUSE DRAFT 1, RELATING TO THE SALE OF TOBACCO PRODUCTS.**

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

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** House Bill No. 2348, Proposed House Draft 1, RELATING TO THE SALE OF TOBACCO PRODUCTS.

The bill, as received by your Committee, would establish a schedule of civil fines for violations of Section 712-1258, Hawaii Revised Statutes (HRS) [Tobacco products and electronic smoking devices]. Specifically, this bill would:

- (1) Provide that an employee of a retailer, permittee, or registrant who violates the prohibition on the sale of tobacco products and electronic smoking devices, be fined \$100 for the first offense, and \$500 for any subsequent offense within five years of a previous offense;
- (2) Provide that any retailer, permittee, or registrant who violates or whose employee violates this prohibition be fined \$500 for the first offense, between \$500 and \$5,000 for a second offense within five years of a previous offense, and have the retailer's, permittee's or registrant's license suspended for a third or any subsequent offense within the five years of the last offense;
- (3) Clarify that for purposes of this law, the definition of "tobacco product" includes "e-liquid"; and
- (4) Provide that upon approval, this law take effect on July 1, 2020.

By way of background, the HPCA represents Hawaii Federally-Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-

**Testimony on House Bill No. 2348, Proposed House Draft 1**  
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oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

FQHCs have long seen first-hand how tobacco has literally destroyed the lives of our patients and their families. Because of the ubiquity of cigarettes, chewing tobacco, and now electronic smoking devices, the impacts of tobacco affect our citizenry on a generational basis with people experimenting at even earlier ages.

It is for this reason that the HPCA joins the American Cancer Society of Hawaii, the Hawaii Public Health Institute, and other advocates in strong support of all efforts to rid the marketplace of these products.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or [eabe@hawaiiipca.net](mailto:eabe@hawaiiipca.net).



## HIPHI Board

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College of Tropical Agriculture  
and Human Resources

Garret Sugai  
Kaiser Permanente

Catherine Taschner, JD  
McCorriston Miller Mukai  
MacKinnon LLP

Date: February 2, 2020

To: Representative John M. Mizuno, Chair  
Representative Bertrand Kobayashi, Vice Chair  
Members of the Health Committee

Re: Support HB2348, Proposed HD1, Relating to the Sale of Tobacco  
Products

Hrg: February 4, 2020 at 8:30 am at Conference Room 329

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The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Institute<sup>i</sup> is in **Support of HB2348, Proposed HD1** which clarifies that liability for illegally selling tobacco products to persons under 21 is borne by the retail entity rather than the employee.

The Coalition supports HB2348, Proposed HD1, which shifts the responsibility from an individual employee to the retailer or permittee. This will incentivize them to provide their employees education and direction on our state law, ensuring retailers keep closer oversight of the sale activities in their stores. This change places majority of the responsibility on the entity with the power to ensure compliance with Hawaii's Tobacco 21 law.

Thank you for the opportunity to testify. We respectfully ask you to pass this measure out of committee.

Mahalo,

A handwritten signature in black ink that reads 'Jessica Yamauchi'.

Jessica Yamauchi, MA  
Executive Director

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<sup>i</sup> 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.

**HB-2348**

Submitted on: 2/2/2020 10:25:57 AM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anthony Orozco	Individual	Oppose	No

Comments:

**HB-2348**

Submitted on: 2/2/2020 1:16:59 PM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kimo Cruz	Individual	Oppose	Yes

Comments:

Tuesday, February 4, 2019 at 8:30 AM  
Conference Room 329

**House Committee on Health**

To: Representative John Mizuno, Chair  
Representative Bertrand Kobayashi, Vice Chair

From: Michael Robinson  
Vice President, Government Relations & Community Affairs

**Re: Testimony in Support of HB 2348, Proposed HB1  
Relating to the Sale of Tobacco Products**

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My name is Michael Robinson, Vice President, Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

I write in **support of HB 2348, Proposed HD1** which establishes a schedule of penalties for employees and holders of retail tobacco permits to sell electronic smoking devices who illegally sell tobacco products and electronic smoking devices to persons under 21.

Tobacco use remains the leading cause of preventable disease and death in the United States and in Hawai'i. Tobacco use is a serious public health problem in terms of the human suffering and loss of life it causes, as well as the financial burden it imposes on society and our healthcare system. Annually, \$526,000,000 in health care costs are directly attributed to smoking in the State. Flavored tobacco products promote youth initiation of tobacco use and help young occasional smokers become daily smokers by reducing or masking the natural harshness and taste of tobacco smoke, thereby increasing the appeal of tobacco products. Menthol, in particular, is used by the tobacco industry because it has a cooling and numbing effect and can reduce the throat irritation from smoking, thus making menthol cigarettes an appealing option for youth who are initiating tobacco use. Candy and fruit flavors improve the taste and reduce the harshness of tobacco products, making them more appealing and easier for beginners to try tobacco products and ultimately become addicted. The popularity of electronic cigarettes among youth is concerning, as these products contain nicotine.

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, electronic smoking device (ESD) use has rapidly increased, threatening significant public health gains through our Tobacco 21 law and tobacco youth access laws. 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. Marketing strategies by the tobacco industry and electronic smoking device industry have significantly increased the introduction and marketing of flavored non-cigarette tobacco products, especially ESDs. Establishing a schedule of penalties for persons who sell ESDs to persons under 21 is a step forward in ensuring the health and wellness of our youth.

Thank you for the opportunity to testify.



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

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**Beau Oshiro**, C&S Wholesale Grocers, *Advisor*  
**Toby Taniguchi**, KTA Superstores, *Advisor*

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**TO:**  
Committee on Health  
Rep. John M. Mizuno, Chair  
Rep. Bertrand Kobayashi, Vice Chair

**FROM:** HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

**DATE:** February 4, 2020  
**TIME:** 8:30am  
**PLACE:** Conference Room 329

**RE:** HB2348 Relating to the Sale of Tobacco Products

**Position:** Comments

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.

Making sure that tobacco products are not sold to underage persons is a responsibility that retailers take very seriously. It requires a team effort between retailers, managers, employees at all levels, and State enforcement agencies. This measure reduces an important incentive for the people who are actually making tobacco sales to follow the law. If the employees who are selling tobacco do not face real repercussions for underage sales it could lead to less ID checking, and even employees intentionally selling to underage friends or others.



**HB-2348**

Submitted on: 2/3/2020 10:18:54 AM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Zehner	Hawaii Smokers Alliance	Oppose	No

Comments:

We strongly oppose this bill. Adults should be able to make the choice to vape or enjoy flavors themselves.

**HB-2348**

Submitted on: 2/1/2020 11:34:00 AM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chris Cooper	Individual	Oppose	No

Comments:

E-vapor flavor doesn't harm anyone. Don't ban the flavors people like.

**HB-2348**

Submitted on: 2/1/2020 1:45:14 PM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alex Abe	Individual	Oppose	No

Comments:

Date: February 1, 2020

To: The Honorable John M. Mizuno, Chair  
The Honorable Bertrand Kobayashi, Vice Chair  
Members of the House Committee on Health

Re: **Strong Support for HB2348**, Relating to the Sale of Tobacco Products

Hrg: February 4, 2020 at 8:30 AM in Capitol Room 329

Aloha House Committee on Health,

I am writing in **strong support of HB2348**, which establishes a schedule of penalties for employees and holders of retail tobacco permits or persons registered to sell electronic cigarette smoking devices who illegally sell tobacco products and electronic smoking devices to persons under 21.

Hawai'i is in the midst of an unprecedented youth vaping (nicotine addition) epidemic and has one of the highest rates of youth e-cigarette use in the nation.

Stronger deterrents to underage access to e-cigarettes and e-liquids in retail establishments is a positive step toward reducing the availability and use of e-cigarettes among our youth.

Establishing penalties for retail tobacco permit holders, not just sales clerks, will encourage retailers to effectively train their staff to avoid all tobacco product sales, including e-cigs and e-liquids, to those under the age of 21. This will provide additional community support to deter youth e-cig access and reduce the business risks of selling to underage purchasers.

I **strongly support HB2348** and respectfully ask you to pass this bill out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD  
Kea'au, HI

**HB-2348**

Submitted on: 2/1/2020 5:49:17 PM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kathy Kim	Individual	Oppose	No

Comments:

I strongly oppose all favor bans,

**HB-2348**

Submitted on: 2/1/2020 11:47:03 AM

Testimony for HLT on 2/4/2020 8:30:00 AM

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

Comments:

**HB-2348**

Submitted on: 2/2/2020 2:15:22 PM

Testimony for HLT on 2/4/2020 8:30:00 AM

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

Comments:

So nasty to people who vape. This bill lacks any logic.

**HB-2348**

Submitted on: 2/2/2020 4:01:35 PM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Clayton Silva	Individual	Oppose	No

Comments:



**HB-2348**

Submitted on: 2/3/2020 2:45:56 AM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jennifer Azuma Chrupalyk	Individual	Support	No

Comments:

**HB-2348**

Submitted on: 2/2/2020 10:28:47 PM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bryan Mih	Individual	Support	No

Comments:

Dear Representatives:

As a pediatrician and medical director of the Kapi'olani Smokefree Families Program, I support this bill.

The American Academy of Pediatrics has strongly supported elimination of flavored tobacco products, including menthol. These products have been shown to be disproportionately used by young people, especially teenagers, as the menthol and other flavors make it easier to start using tobacco and nicotine.

These products are targeted towards our keiki with flavors such as mango, bubblegum, gummy bear, and pineapple. The tobacco corporations have intentionally included menthol, which provides a soothing, cooling effect similar to that in cough drops. Menthol reduces the harsh irritation to the lining of the nose, mouth, and airways, which allows smokers and vapers to inhale more easily. This makes it much easier for young people to initiate tobacco use. The tobacco industry has a long history of marketing menthol cigarettes to youth and vulnerable groups. In Hawaii, 78% of Native Hawaiian and Pacific Islander smokers use menthol cigarettes.

Hawaii has one of the highest rates of middle schoolers (16%) and high schoolers (26%) currently using e-cigarettes—it is twice the national average. Nicotine is a highly addictive drug that impacts the adolescent brain, reducing impulse control and affecting mood. Those who use e-cigarettes are four times more likely to smoke regular cigarettes later on. The e-cigarette industry claims these are cessation devices, but a recent study has shown that even if one adult can quit with these devices, the trade-off is 81 young people who will start the habit in their place. This is completely unacceptable.

Once young people are addicted to nicotine, it is extremely difficult to quit. By eliminating these products from Hawaii, we have the chance to improve the health of many, especially of our keiki.

The appropriate licensing of retailers and accurate labeling of the contents just brings these products in line with laws regarding other tobacco products. This is a common sense solution that is long overdue.

Comprehensive tobacco retailer licensing policies have been proven to be effective in reducing youth initiation of tobacco and nicotine.

On behalf of the keiki and young people of Hawaii, I urge you to support this bill.

Mahalo for your consideration and support of this important measure.

Sincerely,

Bryan Mih, MD, MPH, FAAP

Pediatrician

**HB-2348**

Submitted on: 2/3/2020 10:05:54 AM

Testimony for HLT on 2/4/2020 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sheldon Miyakado	Individual	Support	No

Comments:

Hi All

This bill should follow the same penalties as selling alcohol to minors. I do support tougher laws/ penalties for those who break the laws as it punishes the guilty party. As with the other Bills that try to limit the usage or tax a product that doesn't always contain nicotine only puts a burden or punishes the law abiding citizen. There have been recent studies that show that e-cigarettes have helped people quit smoking regular cigarettes (reducing second hand smoke) and contrary to popular belief it doesn't cause lung disease or other illnesses as stated by the CDC.

***"CDC DROPS its warning against vaping nicotine for adults as officials say it's blackmarket THC e-cigarettes that are 'driving' the outbreak of almost 3,000 lung illnesses"***

***[https://www.dailymail.co.uk/health/article-7900803/CDC-drops-warning-against-vaping-nicotine-adults.html?fbclid=IwAR1n\\_hqDYRZ07tF5oMc8K\\_e0wLvVvh8Ik4NUz5Xgjhp3w6B Cuh7MU66Ye9I](https://www.dailymail.co.uk/health/article-7900803/CDC-drops-warning-against-vaping-nicotine-adults.html?fbclid=IwAR1n_hqDYRZ07tF5oMc8K_e0wLvVvh8Ik4NUz5Xgjhp3w6B Cuh7MU66Ye9I)***

Here is another articles that references ecigs from the CDC.

***[https://reason.org/commentary/cdc-survey-shows-flavors-arent-driving-youth-vaping/?fbclid=IwAR051bwZRSZB4hhH2J\\_Id\\_Hqr\\_9SQafJRaBGrwjWND852H6Uva znRBBfKKY](https://reason.org/commentary/cdc-survey-shows-flavors-arent-driving-youth-vaping/?fbclid=IwAR051bwZRSZB4hhH2J_Id_Hqr_9SQafJRaBGrwjWND852H6Uva znRBBfKKY)***

The problem is the illegal use of ecigs which needs to be addressed with tougher laws or punishments. Punish those who are breaking the laws and not the law abiding citizen who chooses to smoke ecigs.

Best Regards

Sheldon Miyakado

Register voter.



**American  
Heart  
Association.**

## **American Heart Association Testimony Supporting HB 2348, “Relating to the Sale of Tobacco Products,”**

### **Chairman of the Board**

Glen Kaneshige

### **President**

Kahealani Rivera, MD

### **Board Members**

Rick Bruno, MD, FACEP

Jackie De Luz

Brandt Farias

Jason Fujita

Mimi Harris

Brandon Kurisu

Michael Lui, MD

Arnold Martines

Michael Rembis, FACHE

Andrew Rosen

Timothy Slottow

Jennifer Walker

The American Heart Association supports HB 2348, “Relating to the Sale of Tobacco Products.”

The bill’s intention is to clarify existing state law to insure that both retailers and their employees are subject to fines related to enforcement of the State’s Tobacco to 21 law. It also would ban the sale of flavored tobacco products, or the mislabeling of tobacco products as nicotine-free.

It is important that not only tobacco retailer sales staff be held accountable for illegal sales of tobacco products to those under age 21, but also the retailers themselves who stand to profit most from those illegal sales. Clarifying our laws to insure that retailers are also accountable will help to insure that they properly train their staff on the law, and work to insure that illegal sales do not occur.

Prohibiting the sale of flavored tobacco products is also key to ending Hawaii’s youth use of tobacco. The 2014 Surgeon General’s Report projects that if current trends continue, 5.6 million of today’s youth under 18 will die prematurely in adulthood from smoking-related illness. To protect this vulnerable population, policymakers need to move quickly and ban the use of characterizing flavors, including menthol, from all tobacco products.

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](http://www.heart.org) or contact your nearest AHA office.

Office: (808) 377-6630

Fax: (808) 524-0556

Neighbor Islands:

Serviced by the Oahu office

The evidence supporting a flavor ban is clear. As we discuss below, flavored tobacco products are highly attractive to youth and have led to increased initiation and use among children and adolescents. The number of flavored products on the market has also increased substantially with the tobacco industry marketing thousands of fruit, candy, and mint flavored products that appeal to children. Allowing these products to remain on the market puts a new generation at risk of a dangerous addiction. In addition, some of the flavors designed to make e-cigarettes more attractive to children have been shown to harm lung tissue, heart muscle cells, the lining cells of blood vessels, and the cells we need for blood clotting after injury.

While we understand that some adult tobacco users report using flavored products to transition or switch from combustible cigarettes, there is little evidence supporting their use as a cessation tool. The idea that vaping is a better way to quit cigarettes than reliable methods using FDA-approved nicotine replacement products isn’t backed up by the weight of science.

Of the small number of studies about this, most show no advantage for e-cigarettes over the temporary use of FDA-approved products such as gum, lozenges and patches. The latter products have been proven helpful as part of an overall program for quitting, which should also include counselling and can include medications to reduce cravings.

One study frequently cited by industry and its supporter did show e-cigarettes to be effective in stopping smoking. However, as is often the case with science, that part of the

study's results don't tell the whole story. The study, published in the *New England Journal of Medicine*, was conducted in England. That's significant because the e-cigarettes in England are far different from those in the U.S. English products have much lower levels of nicotine (as regulated by the government), and physicians there actually encourage their use to quit smoking.

Two reports from Public Health England are often referenced for stating "E-cigarettes are less harmful than combustible cigarettes." But those studies did not compare e-cigarette use to zero-nicotine exposure. And, those reports rely on small studies or reviews sponsored by organizations supported by Big Tobacco.

Some U.S. smokers have used e-cigarettes to quit, but a growing body of studies shows that approach doesn't work for many people. They cut back, but they still smoke while vaping and they remain addicted. That's called "dual use" in public health literature. The dangers of cigarettes remain, with the added dangers of e-cigarette use. The American Heart Association advises anyone quitting smoking to get off nicotine products altogether, using FDA-approved tools proven to be effective. We also don't want anyone to ever start any nicotine-containing product.

That's why we encourage legislators to make protecting children its top priority when considering legislative options for flavored tobacco. A government study found that 81 percent of kids who have ever used tobacco products started with a flavored product, including 81 percent who have tried e-cigarettes and 65 percent who have ever tried cigars.

AHA feels that a blanket flavoring ban is needed because a wide array of flavors appeal to youth and young adults, which increases the risk of initiation and continued tobacco use. In particular, studies show that menthol cigarettes increase initiation, especially among youth. Menthol is found in most cigarettes, even those not marketed specifically as menthol cigarettes. Menthol's cooling and analgesic properties reduce the harshness of cigarette smoke and irritation from nicotine. Evidence indicates that menthol enhances the addictiveness of cigarettes, both by increasing the likelihood of nicotine addiction in youth who experiment with smoking and by making cessation among adult smokers more difficult.

Menthol cigarettes are used at disproportionately higher rates by racial and ethnic minority smokers, including Native Hawaiians and Filipinos, and Asian Americans. Also, approximately 71 percent of all young LGBT smokers use menthol cigarettes. At least half of all teen smokers use menthol tobacco products. Use of menthol products is also prevalent among non-minority youth and those making less than \$10,000 per year. A convincing body of evidence has shown that tobacco-related health disparities are exacerbated by targeted marketing in minority areas and the consumption of menthol tobacco products. Internal tobacco industry documents show that tobacco companies have a long history of using flavors, including menthol, to reduce the harshness of their products to make them more appealing to new users, almost all of whom are under age 18. The FDA's Tobacco Products Scientific Advisory Committee noted

that “Menthol cannot be considered merely a flavoring additive to tobacco. Its pharmacological actions reduce the harshness of smoke and the irritation from nicotine.” The Committee concluded:

- Menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking; and
- Young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.

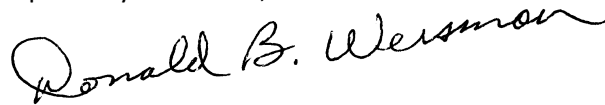
The number of flavored tobacco products on the market increased substantially after flavored cigarettes were banned. After the 2009 federal ban on flavored cigarettes (excluding menthol cigarettes) took effect, the tobacco industry started producing different types of flavored tobacco products that were not subject to the prohibition. This led to the rise in the number of youth using flavored cigars, and especially in Hawaii, e-cigarettes. Both the tobacco industry and youth adjusted to the cigarette flavor ban by moving to other tobacco products where flavors were still allowed. If the Hawaii State Legislature were to pass a flavoring ban, but limit it to certain types of products or flavorings, we are likely to see the same thing happen again.

In Hawaii alone, tobacco use claims 1,400 lives each year and creates \$526 million in annual health care costs directly caused by smoking (\$141.7 million of that is covered by the state Medicaid program). Hawaii residents' state & federal tax burden from smoking-caused government expenditures is \$836 per household. Hawaii's estimated tobacco tax revenue, estimated to be approximately \$110 million per year, does not come close to offsetting the losses to the state caused by tobacco use.

It's time to end the use of candy flavors and menthol to entice our children into a deadly addiction.

The American Heart Association asks for your support of HB2348.

Respectfully submitted,

A handwritten signature in black ink that reads "Donald B. Weisman". The signature is written in a cursive style with a horizontal line above the name.

Don Weisman

Hawaii Government Relations/Communications Director





American Cancer Society  
Cancer Action Network  
2370 Nu`uanu Avenue  
Honolulu, Hawai`i 96817  
808.432.9149  
[www.acscan.org](http://www.acscan.org)

House Committee on Health  
Representative John Mizuno, Chair  
Representative Bert Kobayashi, Vice Chair

**HB 2348, HD 1 Proposed – RELATING TO THE SALE OF TOBACCO PRODUCTS**

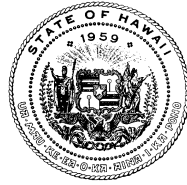
Cory Chun, Government Relations Director – Hawaii Pacific  
American Cancer Society Cancer Action Network

Thank you for the opportunity to provide comments on HB 2348, HD 1 proposed, which amends the penalties and clarifies fines and penalties between employees and licensees and registrants of tobacco products and electronic smoking devices.

While we recognize the need to differentiate penalties between the employee and the retailer or registrant penalties against the employee and may serve as a distraction for enforcement. We believe the penalties for retailers and registrants can be strengthened in this measure. Specifically, there are two separate enforcement procedures for suspension of a permit/license and registration under Section 245-2, Hawaii Revised Statutes, and Section 28-168, Hawaii Revised Statutes. For consistency between the Department of Taxation and the Department of Attorney General as enforcement agencies, a specific time of suspension could clarify this discrepancy. We would also recommend including active enforcing which would require at least two compliance check per year per retailer, permittee, or registrant.

We would also encourage the committee to consider repealing penalties for under-age possession of tobacco products as we feel these provisions do not deter behavior and punish those individuals who may be addicted to these products.

Thank you for the opportunity to provide comments on this important matter.



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

**LATE**

**Testimony in SUPPORT of H.B. 2348, Proposed H.D. 1  
RELATING TO THE SALE OF TOBACCO PRODUCTS**

REPRESENTATIVE JOHN M. MIZUNO, CHAIR  
HOUSE COMMITTEE ON HEALTH

Hearing Date: February 4, 2020

Room Number: 329

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) supports House Bill 2348,  
3 Proposed House Draft 1 (H.B. 2348, Proposed H.D. 1) which clearly establishes the legal  
4 responsibility of the retailer, permittee, or registrant who sells tobacco products and the liability  
5 incurred when illegal tobacco sales are made to anyone under 21 years of age.

6 The inclusion of penalties for the retailer/permittee and registrant provides a meaningful  
7 incentive for retailers to comply with tobacco and electronic smoking device (ESD) sales laws.  
8 It holds licensees responsible for the actions of their employees, reinforces supervisory  
9 responsibility and on-site employee training and education while reducing youth access and  
10 subsequent addiction. The proposed change also aligns with the amended Federal Food, Drug  
11 and Cosmetic Act which raised the federal minimum age of sale of tobacco products to 21 years.

12 This measure removes the ambiguity of simply referring to a “person” and replaces it  
13 with “employee of a retailer, permittee, or registrant” who illegally sells to persons under 21 and  
14 reduces the fine from \$500 to \$100 for the first offense. Subsequent offenses within five years  
15 are not less than \$100 nor more than \$500. The retailer, permittee, or registrant in violation or  
16 whose employee illegally sells to persons under 21 years is to be fined \$500 for the first offense.  
17 Subsequent offenses within five years start at \$500 and can go to \$5,000. Further, a third or  
18 more offenses shall result in license suspension.

19

1           The DOH supports H.B. 2348, Proposed H.D. 1 which provides clarity on selling tobacco  
2 products to persons under 21 by specifying that retail entities and retail tobacco permit holders  
3 are subject to the penalty provisions for illegal underage tobacco sales. The Department met  
4 with representatives from the four county Office of the Prosecuting Attorney, who met because  
5 of the concerns with youth ESD use. The prosecutors requested clarification to Section 712-  
6 1258, Hawaii Revised Statutes, to help standardize enforcement across counties, and to increase  
7 compliance with the identification checks and required signage, and hold accountable those  
8 persons who allow or influence the sale or consumption of tobacco products to a person under  
9 the age of 21.

10           Thank you for the opportunity to testify.

11   **Offered Amendments:** The Department supports the Proposed H.D. 1 that corrects the body of  
12 the text contained in the current H.B. 2348.

**LATE**

**HB-2348**

Submitted on: 2/3/2020 4:53:37 PM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ned Garcia	Individual	Oppose	No

Comments:

Protect freedom of choice.

**LATE**



TESTIMONY OF TINA YAMAKI  
PRESIDENT  
RETAIL MERCHANTS OF HAWAII  
February 4, 2020

Re: HB 2348 RELATING TO THE SALE OF TOBACCO PRODUCTS

Good afternoon morning Chairperson Mizuno and members of the House Committee on Health. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) as founded in 1901 and is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

We STRONGLY OPPOSE HB 2348 Proposed HD1 Relating to the Sale of Tobacco Products. This measure establishes a schedule of penalties for employees and holders of retail tobacco permits or persons registered to sell electronic smoking devices who illegally sell tobacco products and electronic smoking devices to persons under 21.

Currently Hawaii has a law in place that states that it is unlawful for a person under the age of 21 years to purchase electronic vaping devices, e-liquids and tobacco products. However, we are finding that the retailers are not intentionally selling vaping devices to those under the age of 21. With new technology and printers, some of the fake IDs that the minors presents obtain look like the real state IDs.

The majority of the vape shops on our islands are responsible and have a policy that they won't sell a vape device or cigarettes to anyone 21 years old and under. Retailers often go as far as not selling to the adult that accompanies the minor into the store if it is revealed that the device is for the minor.

How would retailers know if the vape device that the adult purchased would be given to someone underage? Retailers have no control over their products once they are sold and the customer walks out the door with them. It is often times the adult family member or friend that purchases the vape devices for the minors.

We feel that the penalties should be directed more towards the adults who provided the minor with the Vaping devices as well as the minor who is breaking the law by using this device. Maybe with stricter penalties for the adults purchasing the devices for the minor, underage vaping would lessen as they are the ones ultimately getting penalized.

Mahalo again for this opportunity to testify.

**LATE**

**HB-2348**

Submitted on: 2/3/2020 5:08:07 PM

Testimony for HLT on 2/4/2020 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Johnathon G. Myers	Individual	Support	No

Comments:

I support the Governor's proposed Bill, as written, to help enforce retailers to abide by the legal age (21 in State of Hawai'i) of adults to purchase adult tobacco/e-cigarette products.

Aloha

Johnathon Myers

Concerned Constituent



**LATE**

Testimony of Kimo Haynes,  
President of the Hawaii Petroleum Marketers Association

**SUPPORTING THE INTENT OF HOUSE BILL 2348, PROPOSED HOUSE DRAFT 1,  
RELATING TO THE SALE OF TOBACCO PRODUCTS**

House Committee on Health  
The Honorable John Mizuno, Chair  
The Honorable Bertrand Kobayashi, Vice Chair

Tuesday, February 4, 2020 at 8:30 a.m.  
Hawaii State Capitol, Conference Room 329

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

I am Kimo Haynes, 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.

House Bill 2348, Proposed House Draft 1 establishes a schedule of penalties for employees and holders of retail tobacco permits or persons registered to sell electronic smoking devices who illegally sell tobacco products and electronic smoking devices to persons under 21.

**HPMA supports the intent of HB 2348, Proposed HD 1.**

We appreciate the language in this proposed draft that differentiates it from HB 1018 and SB 1244 that were introduced in the 2019 legislative session. Last year’s bills insulated frontline retail employees from liability. In our estimation, that would have worked against the overall objective of keeping tobacco products out the hands of underage buyers.

Thank you for allowing HPMA the opportunity to submit written testimony on this bill.